

Commission of Inquiry into the Decline of  
Sockeye Salmon in the Fraser River



Commission d'enquête sur le déclin des  
populations de saumon rouge du fleuve Fraser

## Public Hearings

## Audience publique

**Commissioner**

L'Honorable juge /  
The Honourable Justice  
Bruce Cohen

**Commissaire**

**Held at:**

Room 801  
Federal Courthouse  
701 West Georgia Street  
Vancouver, B.C.

Thursday, September 22, 2011

**Tenue à :**

Salle 801  
Cour fédérale  
701, rue West Georgia  
Vancouver (C.-B.)

le jeudi 22 septembre 2011

## **APPEARANCES / COMPARUTIONS**

Brian Wallace, Q.C. Patrick McGowan Jennifer Chan	Senior Commission Counsel Associate Commission Counsel Junior Commission Counsel
Mitchell Taylor, Q.C. Tim Timberg	Government of Canada ("CAN")
Clifton Prowse, Q.C. Boris Tyzuk, Q.C.	Province of British Columbia ("BCPROV")
No appearance	Pacific Salmon Commission ("PSC")
Chris Buchanan	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
Alan Blair	B.C. Salmon Farmers Association ("BCSFA")
No appearance	Seafood Producers Association of B.C. ("SPABC")
Gregory McDade, Q.C.	Aquaculture Coalition: Alexandra Morton; Raincoast Research Society; Pacific Coast Wild Salmon Society ("AQUA")
Tim Leadem, Q.C.	Conservation Coalition: Coastal Alliance for Aquaculture Reform Fraser Riverkeeper Society; Georgia Strait Alliance; Raincoast Conservation Foundation; Watershed Watch Salmon Society; Mr. Otto Langer; David Suzuki Foundation ("CONSERV")
Don Rosenbloom	Area D Salmon Gillnet Association; Area B Harvest Committee (Seine) ("GILLFSC")

**APPEARANCES / COMPARUTIONS, cont'd.**

Phil Eidsvik	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Chris Harvey, Q.C.	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
John Gailus	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwlitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Brenda Gaertner Crystal Reeves	First Nations Coalition; First Nations Fisheries Council; Aboriginal Caucus of the Fraser River; Aboriginal Fisheries Secretariat; Fraser Valley Aboriginal Fisheries Society; Northern Shuswap Tribal Council; Chehalis Indian Band; Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council; Upper Fraser Fisheries Conservation Alliance; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout); Adams Lake Indian Band; Carrier Sekani Tribal Council; Council of Haida Nation ("FNC")
Melanie Hudson, Articled Student	Métis Nation British Columbia ("MNBC")

**APPEARANCES / COMPARUTIONS, cont'd.**

Tim Dickson	Sto:lo Tribal Council
Nicole Schabus	Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid, Aboriginal Aquaculture Association ("LJHAH")
No appearance	Musgamagw Tsawataineuk Tribal Council ("MTTC")
Ming Song	Heiltsuk Tribal Council ("HTC")

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PANEL NO. 65  
In chief by Mr. Wallace

1 Vancouver, B.C./Vancouver  
2 (C.-B.)  
3 September 22, 2011/le 22  
4 septembre 2011  
5

6 THE REGISTRAR: The hearing is now resumed.

7 THE REGISTRAR: Order. The hearing is now resumed.

8 MR. WALLACE: Good morning, Commissioner Cohen. I'm  
9 Brian Wallace, Senior Commission Counsel, and with  
10 me this morning for this panel are Patrick McGowan  
11 and Jennifer Chan.

12 The panel, today, and for the next five days,  
13 appearing, it's the final five days of our  
14 evidentiary hearings, are the senior DFO officials  
15 who we've -- all of whom have returned from  
16 previous visits here, and we've described this as  
17 priorities and summary panel.

18 And Mr. Commissioner, I know you know all  
19 these people, but just for the record, the closest  
20 to you is Dr. Laura Richards, who's the Regional  
21 Director of Science for the Pacific Region; David  
22 Bevan, Associate Deputy Minister; the Deputy  
23 Minister Ms. Claire Dansereau; and the Regional  
24 Director General Sue Farlinger.

25 We'd like to just remind the witnesses,  
26 you've all been here before, at which time you  
27 were previously affirmed to tell the truth in  
28 these hearings, and that still applies.  
29

30 LAURA RICHARDS, recalled,  
31 warned.  
32

33 DAVID BEVAN, recalled, warned.  
34

35 CLAIRE DANSEREAU, recalled,  
36 warned.  
37

38 SUSAN FARLINGER, recalled,  
39 warned.  
40

41 EXAMINATION IN CHIEF BY MR. WALLACE:  
42

43 Q I have one housekeeping matter to deal with by way  
44 of a document that has been serviced in the  
45 hearing a number of times and has been given the  
46 identifier of Exhibit B (sic) for identification.  
47 It is the first document in the Commission's list

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1 of documents. This is a Pacific Fisheries and  
2 Aquaculture Committee Working Group Meeting  
3 minutes -- meeting notes from March of 2005, and  
4 Ms. Farlinger, you were in attendance. I wonder,  
5 please, if you can just identify that?

6 Did I get that wrong? Exhibit P for  
7 identification, thank you. If you can just  
8 identify that document as being as it's described?

9 MS. FARLINGER: Yes.

10 MR. WALLACE: Thank you. Mr. Commissioner, may that be  
11 marked as the next exhibit, please.

12 THE REGISTRAR: 1913.

13  
14 EXHIBIT 1913: Formerly P for identification  
15 - Meeting notes from the Pacific Fisheries  
16 and Aquaculture Committee working group  
17 meeting of March 11th, 2005  
18

19 MR. WALLACE:

20 Q Let me just start, then, with a question for Ms.  
21 Dansereau and Mr. Bevan, and these are -- the  
22 first series of questions will deal with funding  
23 issues, and in particular the strategic review and  
24 strategic and operational review.

25 The strategic review was a 2010 funding  
26 exercise, as I understand it and as we've heard,  
27 that looks at cuts of five percent, and it's  
28 described as looking at DFO priorities and  
29 intended outcomes to determine whether DFO  
30 programs were aligned with its priorities.  
31 Currently, there's a strategic and operational  
32 review ongoing, with a goal of five to 10 percent,  
33 as I understand it, and it's described as  
34 considering redesigning the delivery of current  
35 programs, also, but asks: Do these programs need  
36 to be delivered by public servants the same way,  
37 or can they be changed to reduce costs? The  
38 question is DFO -- or the assertion is that DFO  
39 needs to change how it does business.

40 If I may ask about the strategic review, what  
41 was the actual budget cut to DFO as a result of  
42 the strategic review?

43 MS. DANSEREAU: 56.8 million.

44 Q And by way of percentage, that is how much? Is it  
45 the five percentage?

46 MS. DANSEREAU: No, it's about three percent.

47 Q Thank you. And how much is being cut pursuant to

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1 the strategic and operational review, and when  
2 will these cuts take effect?

3 MS. DANSEREAU: The number is obviously not finalized  
4 because we are in the process, right now, of  
5 developing the proposals and having them  
6 considered by Treasury Board and by cabinet, so we  
7 are in no way able, at this point, to give a  
8 number because we haven't come to the end of the  
9 process.

10 Q Order of magnitude?

11 MS. DANSEREAU: Well, five and 10 percent.

12 Q Okay. And when will these cuts begin to take  
13 effect?

14 MS. DANSEREAU: The strategic and operating review,  
15 also known as the Deficit Reduction Action Plan,  
16 would come into effect April 2012, and be for a  
17 duration of three years. Not that the money would  
18 come back after three years, but they would be  
19 implemented over a three-year period.

20 Q And so that's five percent, five to 10 percent  
21 annually. It's not a diminishing amount, it stays  
22 at five to 10 percent?

23 MS. DANSEREAU: So far, yes.

24 Q What consultation has taken place with respect to  
25 these decisions? Has there been any consultation  
26 with DFO regional or field staff?

27 MS. DANSEREAU: There's definitely been consultation  
28 with DFO regions. The consultation, though,  
29 because these are budget processes doesn't go very  
30 -- completely deep into the Department, nor  
31 outside of the Department, as is fairly standard  
32 for these kinds of processes. But on certain  
33 elements, information is sought without  
34 necessarily discussing the overall proposals,  
35 because of cabinet confidences.

36 Q So just to reiterate, and there's been no  
37 consultation outside of the Department?

38 MS. DANSEREAU: No consultation whatsoever.

39 Q As I understand the strategic and operational  
40 review, it considers whether DFO should be  
41 performing certain tasks and whether some can be  
42 performed by others. If the public and  
43 stakeholders are being considered as possibly  
44 taking up some of these tasks, why would it not  
45 have been appropriate to determine capacity and  
46 willingness to do some of these things?

47 MS. DANSEREAU: It's a standard, as I said, it's a

1 standard process for government in preparation for  
2 budget documents. There is a general type of  
3 consultation and we are, as I think you know, now,  
4 in constant consultation with our stakeholders, so  
5 we have a fairly good sense of what is possible.  
6 But really, the job right now, as the job should  
7 be for any government at any time, is to look at  
8 what we do and how we do it, and this is something  
9 that should be done on an ongoing basis, anyway,  
10 and we should be the ones looking at that.  
11 Q Okay. But am I correct that part of the strategic  
12 and operational review is to look at whether or  
13 not there are others who can do things that DFO is  
14 currently doing?  
15 MS. DANSEREAU: Yes.  
16 Q And who are you looking at for that; other levels  
17 of government or stakeholders?  
18 MS. DANSEREAU: In some -- yes, in some cases, yes.  
19 Q Non-governmental organizations?  
20 MS. DANSEREAU: Mm-hmm. Yes.  
21 Q Ms. Dansereau, is there a level of funding below  
22 which DFO will not be able to manage the fishery  
23 and protect the fisheries resource?  
24 MS. DANSEREAU: I'm not sure that there's an answer to  
25 that question. Obviously, if there was zero money  
26 there would be zero management and we organize  
27 around what we have. So I would say we will  
28 continue to do the best that we can with the  
29 resources that we have and will continue as  
30 resources diminish. We will continue to focus and  
31 prioritize (sic) and make sure that we are  
32 protecting the resources to the best of our  
33 ability with the resources that we have.  
34 Q Is it your job to advise government on when these  
35 cuts are threatening DFO's ability to do its job?  
36 MS. DANSEREAU: If we felt that we absolutely could not  
37 find any savings then yes, we would.  
38 Q Have you given such advice to government with  
39 respect to these proposed cuts?  
40 MS. DANSEREAU: No.  
41 Q One of the issues that's come up in funding cuts  
42 is the impact on harvest enforcement, and Randy  
43 Nelson has testified here that there's an ever  
44 increasing amount of pressure and workload put on  
45 fisheries officers and that conservation and  
46 protection is at capacity in terms of enforcement.  
47 We've also heard that there are areas of the coast

1 that are infrequently patrolled. Despite this,  
2 we've heard that C&P is facing funding and  
3 possibly personnel cuts through the Strategic and  
4 Operational Review and the non-renewal of what's  
5 been referred to as the Williams PICFI-based  
6 funding.

7 Are you concerned about that impact of these  
8 cuts on C&P's ability to conduct a credible  
9 enforcement program?

10 MS. DANSEREAU: It's my job to always be watchful and  
11 to make sure that we don't put forward proposals  
12 that would result in an inability to do work.  
13 There are different definitions, as I'm sure you  
14 are aware, different definitions as to what work  
15 should be done, and that's why we have extensive  
16 processes to define priorities and to also,  
17 though, define -- redefine, on an ongoing basis,  
18 as every government should, how we do our work.  
19 And, as you know, I think you know the C&P group  
20 is looking at that at the national level and  
21 within each of the work units.

22 So, to as the fisheries change, how we  
23 enforce and how we monitor also ought to change,  
24 and so budget levels that might have been required  
25 a number of years ago may not be the same budget  
26 levels that will be required in the future; they  
27 may be more, they may be less. But it requires  
28 that we have adequate planning processes with the  
29 input of the C&P officials and others, as well, on  
30 the management side, to help us prioritize.

31 Q Mr. Bevan, you were a former director of  
32 conservation and protection nationally, I believe.  
33 Do you have any observations about the risks on  
34 funding to conservation and protection in British  
35 Columbia?

36 MR. BEVAN: The levels of funding for conservation and  
37 protection in British Columbia and how we  
38 distribute the resources across the country have  
39 always been a question that requires constant  
40 re-evaluation, so it's not like it's static. You  
41 have to look at what your situation is and  
42 determine if there's capacity to make changes.

43 With respect to the C&P, what the role, on an  
44 annual basis is, is to evaluate risks, evaluate  
45 your performance from a previous year, look at  
46 your risks for the coming years, set your  
47 priorities, look at ways to realign how you do

1 your business, how you do your enforcement  
2 activities, look at opportunities for new  
3 technologies and new approaches.

4 Clearly, if you're doing the same thing year  
5 over year and your budget declines, you're going  
6 to have a decline in your activity. If, on the  
7 other hand, you're looking at use of new  
8 electronic information procedures, such as vessel  
9 monitoring systems and e-logs and databases that  
10 can be compared looking at your -- where you're  
11 spending your patrol hours, what the outcomes  
12 were, we expect managers in C&P to do all of that  
13 prior to coming to seek changes to resourcing  
14 levels or to justify continuation of B-base money.  
15 That's the kind of thing that we would expect, and  
16 it's not acceptable to have someone say, "Look,  
17 I'm going to do it the same way, I'm not going to  
18 change, and if I don't get this renewed there'll  
19 be an impact on patrol hours." That's not  
20 something that we would want to see on a  
21 management team. We would want to see how they've  
22 evaluated the risks, how they're going to manage  
23 those risks, and how they're going to make changes  
24 to their business approach to doing the compliance  
25 work.

26 If, after all of that, there's still a gap,  
27 then we would consider it on a national basis.  
28 But that's the process that we would go through.  
29 And someone coming to us and saying, "Look, I'm  
30 going to lose 14 or 15 people and I don't want to  
31 change anything," is not going to get a very kind  
32 reception, unless they've done their homework.

33 Q Your answer suggests that the solution lies in  
34 bringing in new technologies and replacing people  
35 with a different kind of enforcement technique; is  
36 that correct?

37 MR. BEVAN: We've gone from -- the act of enforcement  
38 was the focus that we've had in the past, where we  
39 send people out to do monitoring, control and  
40 surveillance. That can definitely find poachers,  
41 find non-compliance, but it finds one individual,  
42 it doesn't deal with the whole system. So what  
43 we've tried to move to is going to education and  
44 shared stewardship, bringing people along to  
45 understand the need for conservation, the need for  
46 compliance. Yes, we'll have monitoring, control  
47 and surveillance, but we also need major case

1 investigations so that if you have a systemic  
2 problem in a location or in a particular component  
3 of fish harvesting and processing, et cetera, you  
4 spend the resources to get at that systemic  
5 problem.

6 And we've seen in many examples, where we've  
7 used different datasets, we establish datasets so  
8 that officers can look at various sources of  
9 information, look for anomalies, and focus their  
10 investigations there, those are the kinds of  
11 things that we would expect to be looking at,  
12 rather than just saying, "Okay, I had this amount  
13 of resources, my workload's gone up, I want more."  
14 We need to have a better business case so we can  
15 seek continuous improvement.

16 I'm not saying that we're going to say we can  
17 get rid of lots of fishery officers by introducing  
18 new technologies, because there is an increasing  
19 workload. But I am saying that it's not a simple  
20 number of fishery officers versus what was in the  
21 past and what's coming in the future. There needs  
22 to be a continuous challenge function put together  
23 by the regional office and by the national office  
24 to say, "Okay, let's look at better ways to get  
25 the job done," and we've seen some significant  
26 outcomes in the number of areas across the country  
27 where we've uncovered systems of non-compliance  
28 that were picked up through new technologies and  
29 new ways of using information, and that's what we  
30 expect across the country.

31 Q Have such successes occurred in the Pacific  
32 region?

33 MR. BEVAN: There have been successes in the Pacific  
34 region, but I can't point to one specific to  
35 Fraser River sockeye and some of the testimony  
36 you've heard, but I think that there's opportunity  
37 in the very near future to employ the new  
38 technologies that are being -- and new processes  
39 that are being introduced already in the salmon  
40 fishery in British Columbia, and that is better  
41 use of information on a real time basis. Use of  
42 sales slips and records of that nature is not  
43 going to give you the tools you need to deal with  
44 real time problems, and I think there's a better  
45 way to approach that, and that's, to me, more  
46 exciting, in terms of improvements, than just more  
47 fishery officers, et cetera.

1                   So it's not to say that there won't be  
2 continuation of the funding, et cetera, but there  
3 will have to be a business case put forward with  
4 those kinds of considerations included.

5           Q       One more thing, Mr. Bevan, before I come back to  
6 you, Ms. Dansereau. You would agree, though, that  
7 trying to replace fisheries officers by, what I  
8 think it's called, intel, intelligence-led  
9 policing methods, has a cost in terms of  
10 compliance?

11       MR. BEVAN: I think that that would be prejudging the  
12 outcome. And also, we aren't interested in sort  
13 of dramatic shifts of trying to do something all  
14 at once. These are the sort of things you should  
15 be testing before you look at any changing and  
16 funding. So it's not something you say, "I think  
17 I could put in this new process and save 10  
18 people." That's a bad way to approach the  
19 business. The better way is to look at ways to  
20 improve compliance through different methods and  
21 you'll see what your funding requirements will be  
22 in the out years, but not to do it -- not to cash  
23 in any savings before you have a chance to do so  
24 -- do that kind of evaluation and make sure you've  
25 got compliance. Because what you don't want to do  
26 is have compliance problems caused by your changes  
27 and either not be able to track them or not be  
28 able to then reverse the approach and go back to  
29 the traditional way.

30                   So it's an evolution, not a revolution.  
31 We're not looking at quantum changes, we're  
32 looking at continuous improvement in how we get  
33 compliance with the resources that we have.

34       Q       Ms. Dansereau?

35       MS. DANSEREAU: If I can just add to that, and I agree  
36 with all of it, obviously, but the enforcement  
37 technologies will be one area that we look at.  
38 The other, though, are the policies that we are  
39 enforcing and how we're managing them, and that  
40 brings us to a management framework. And instead  
41 of policies that may not require the same kind of  
42 attendance for each boat, so I use, as an example,  
43 that might be useful for the Commission, the  
44 integrated groundfish management approach, which  
45 controls the bycatch, and I won't go into the  
46 details of that, but it allows us to manage within  
47 a fishery areas that would otherwise be required

1 to be managed through enforcement, and there are  
2 electronic monitoring systems that we know exactly  
3 what boat caught exactly what fish. So I think  
4 there are examples that we can use on the policy  
5 side to make sure that what we are enforcing makes  
6 sense, both from a conservation perspective and  
7 from an industry requirement perspective, and then  
8 there are the technological changes as well. And  
9 the go together and that becomes a management  
10 approach.

11 Q Ms. Farlinger, you will have heard that some of  
12 the people closer to the ground think that having  
13 conservation officers on the ground is at risk and  
14 it's an important thing to try and maintain. Are  
15 you satisfied with the coverage you have compliant  
16 -- as conservation and -- here?

17 MS. FARLINGER: A fairly broad question, but in  
18 general, the -- it's important for us, both on the  
19 management side and the enforcement side, to  
20 continue to work together and involve, in the way  
21 that both David and the Deputy have mentioned. In  
22 fact, over the last couple of years we've been  
23 working quite hard at making sure the management  
24 side, the science side, and the enforcement side  
25 are working more closely together to make sure  
26 that we're actually getting those connections and  
27 synergies.

28 I think the, you know, the question can  
29 always be asked, "Could you do with more fishery  
30 officers on the ground?" and I guess, of course,  
31 you always could, in the same way you could do  
32 with more policemen on the highways. But by and  
33 large, the enforcement has been done in a way that  
34 respects the priorities that we need to meet. And  
35 that means that sometimes enforcement effort's to  
36 be focused in one area and the next year they may  
37 be changed to another area. It doesn't mean,  
38 necessarily, that all areas are covered in the  
39 same way every year.

40 Q You've heard the evidence of Mr. Bevan and the  
41 Deputy with respect to the need to do some  
42 testing, find out what works and what doesn't  
43 work. What are you doing in British Columbia to  
44 make sure that this new direction makes sense or  
45 to test whether it does?

46 MS. FARLINGER: Well, I think if we were to look at  
47 salmon in particular, that there's a good part of

1 the PICFI program that is dedicated to looking at  
2 transformational kind of work. So what can we do  
3 about catch monitoring that is better and is  
4 modernized and takes count of the current context?  
5 Similarly, in enforcement, there has been a  
6 significant amount of resources, PICFI resources,  
7 put into building capacity and testing  
8 intelligence-led policing. There are certainly  
9 areas in co-management that we're testing and  
10 trying to move forward.

11 So that's part of the continuous improvement  
12 process, and one of the ways in which we use what  
13 we call B-base or additional funding is to test  
14 how we need to change and whether, in fact, it's  
15 more effective or not.

16 Q Indeed, the Williams report in 2004 recommended  
17 that DFO must ensure that adequate resources are  
18 available and a budget and staffing available for  
19 enforcement be increased. There was, as a result,  
20 Williams funding in 2005, which, I think, became  
21 part of PICFI, all of which will sunset in six  
22 months. So if this is supposed to be  
23 transformational, I guess the question is: Has it  
24 worked? And the question is: If it is improving  
25 -- the next question is: If it is improvement  
26 enforcement, why is it being concluded?

27 MS. FARLINGER: That's certainly part of what we would  
28 evaluate and are actively evaluating is as the  
29 program approaches its end, we're looking at all  
30 of the funds that have been spent and the  
31 activities that have been done under that program  
32 and looking at what our best advice would be to  
33 decision-makers about where we need to move  
34 forward with that, or how we would implement it  
35 into our day-to-day work.

36 Q Let me just turn back to the question of the  
37 relative merits of officers on the ground and  
38 alternative methods of enforcement. Again, coming  
39 back to the evidence of Randy Nelson, he made the  
40 point that the biggest deterrent you can have is  
41 the presence of fisheries officers, and testified  
42 that, in his view, there is absolutely a  
43 connection between fishery officer presence and  
44 the degree of illegal activity.

45 Do you have any specific additional  
46 information that would suggestion anything other  
47 than the correctness of that view?



1 MR. BEVAN: I think that that view relates to what  
2 risks you are trying to control. If you're  
3 looking at fraudulent activities, having fishery  
4 officers on the ground may not be effective at  
5 all. What's more effective is having fishery  
6 officers conducting major investigations using  
7 datasets that come from a variety of sources. So  
8 that kind of risk is not something that is  
9 addressed through fishery officers on the ground.

10 What is addressed through officers on the  
11 ground is the kind of risk controlled by  
12 monitoring, control and surveillance, that would  
13 be poaching and those kinds of activities. But  
14 that's an expensive process. If there's an  
15 alternative to having other datasets collected,  
16 different policies, as the Deputy noted, different  
17 requirements to provide information to the  
18 government to demonstrate that your activities are  
19 consistent with conservation and are legal. If  
20 that's an alternative, then that's a more  
21 effective way of getting compliance than the boots  
22 on the ground analogy.

23 The latter does apply when you don't have  
24 datasets, you don't have the requirements for the  
25 landing, et cetera, that you might otherwise have,  
26 then you'd either put fishery officers there to  
27 influence behaviour during the fishery. And  
28 again, that's an expensive model. And the  
29 question is: Is that the only model, or is there  
30 a better way of making changes to get that  
31 compliance?

32 We all want compliance. And in the old  
33 model, if you're fixed on that monitoring, control  
34 and surveillance, you're going to need fishery  
35 officers. The question is, is there a way to get  
36 the right balance between that, the education, the  
37 shared stewardship, bringing the public and the  
38 participants and the fishery into the process of  
39 change and behaviour and getting the culture of  
40 conservation and do it in the fishery, and then on  
41 the major investigations you still have to have  
42 that capacity. So it's no matter what your risk  
43 is, what your strategy for dealing with risks are,  
44 and then that helps determine how many people you  
45 need on the ground.

46 So I think what Mr. Nelson was saying is that  
47 given the current method of management, the

1 current practices, yeah, we need fishery officers.  
2 But the question is, is that the only way to get  
3 the compliance, or are there other alternatives?  
4 Q Mr. Bevan, you've been setting the two models sort  
5 of against each other and stating it as a question  
6 as to we have to determine what's the better way  
7 to do this. And I understand the generalities.  
8 Can you direct us to any specifics as to what's  
9 being done to get the answer to that question?  
10 What specific initiatives has the Department taken  
11 -- doing to evaluate current methods and comparing  
12 them with others? Are there some tests going on?  
13 What's going on?

14 MR. BEVAN: Well, I can't specifically speak to what's  
15 going on in the salmon fishery here, but I know  
16 that we've changed the way we've handled things in  
17 the crab fishery. We've looked at the  
18 effectiveness of monitoring, control and  
19 surveillance versus using datasets to do major  
20 investigations, and it was stark. We were not  
21 getting results the old way. We were getting  
22 results the new way. And we have a tremendous  
23 difference in our appreciation of the kind of  
24 activities that were involved in that particular  
25 fishery in Atlantic Canada. We've seen a more  
26 proactive approach with the groundfish integration  
27 in British Columbia, where we didn't have the  
28 problems with -- so much as compliance as with  
29 bycatch control. And that's another example of  
30 change.

31 In the salmon fishery, we need to reconsider  
32 whether or not we can live with a sales slip model  
33 - I don't think so - whether we can try to control  
34 it through monitoring, control and surveillance as  
35 the only way. That's dealing with individual  
36 interactions and not with the broader, systemic  
37 issues, and I think we need to look at the systems  
38 that are in place in salmon to try and change  
39 those to make the improvements. But I don't know  
40 if the --

41 Q Well, I'll put that point to Ms. Farlinger. What  
42 are you doing to test these alternative  
43 hypotheses?

44 MS. FARLINGER: Well, as I mentioned, part of the PICFI  
45 funding went towards conservation and protection,  
46 specifically, to build capacity in what is called  
47 intelligence-led policing, which I think is sort

1 of a general term for what David has just  
2 described. In addition, there have been funds and  
3 work put towards the examination of a share-based  
4 fishery in salmon and what the management and  
5 enforcement implications of that might be. Also,  
6 on the catch monitoring side.

7 And really, all of those things have to be  
8 considered together in terms of modernizing the  
9 management of the salmon fishery, including the  
10 enforcement. So there has been considerable work,  
11 and we're in the process of pulling all that work  
12 together, analyzing what has been done, did we  
13 meet all our objectives with the PICFI program,  
14 where we haven't met them, where should we go from  
15 here, and those kinds of things that really happen  
16 at the end of a program in terms of, is this ready  
17 to implement now, or is there more work required,  
18 or what will we do about it to carry it forward?

19 So on all three fronts I think there have  
20 been -- there's been specific work funded through  
21 this additional B-based funding, and we are in the  
22 process of evaluating that right now.

23 Q Yes, two questions arising out of that. Can you  
24 be more specific about the process of evaluating,  
25 particularly the conservation and protection  
26 piece? Can you be more specific about what you're  
27 doing to evaluate the technologies, which I gather  
28 you've -- I think I heard you say were being  
29 encouraged by PICFI funding?

30 MS. FARLINGER: Well, on the conservation and  
31 protection side, and I should say it varies across  
32 those three elements, on the conservation and  
33 protection side, we're working with national  
34 headquarters' C&P folks. As you may have heard,  
35 the director general of conservation and  
36 protection is currently running a process looking  
37 at modernization of C&P, and the results from  
38 Pacific region work will be going into that  
39 process. I believe it's called C&P 2012, and so I  
40 do think it's very much anticipated that the  
41 results of that evaluation, in which we are  
42 participating, will be available in 2012.

43 Q Have you made a report to national headquarters on  
44 this topic?

45 MS. FARLINGER: It's more a case -- there are reports  
46 involved, but it's more a case of bringing  
47 information together and working through the

1 challenges, the information and the problems, to  
2 come up with something to implement on an ongoing  
3 basis.

4 Q So if I understand, there is an evaluation going  
5 on nationally in which British Columbia is  
6 participating, but am I correct -- would I be  
7 correct in saying there's been no -- nothing  
8 provided to national headquarters about this  
9 evaluation? Is it being looked at through a  
10 rigorous program where you're making comparisons  
11 and trying to draw conclusions as to what works  
12 and what doesn't, or is this just in the stage of  
13 general discussion?

14 MS. FARLINGER: As I understand the national process,  
15 that there's been considerable work over the last  
16 three or four months, and I believe there's a  
17 national meeting next week and -- when various  
18 officers from various parts of the organization  
19 are coming together to evaluate the issues and to  
20 provide the regional perspective on that  
21 evaluation and analysis.

22 I think because, at the regional level, we  
23 have looked at the work that's been done under  
24 PICFI each year and we ask for progress reports,  
25 and those become part of that broad evaluation.  
26 So I think the answer that you may be looking for  
27 is, is the evaluation is very much an ongoing  
28 process, it's a participatory process, and one  
29 that will come out with documented decisions at  
30 the end of it.

31 Q In the meantime, what's happening on the ground?  
32 Is the Department committed to maintaining the  
33 current level of enforcement, using conventional  
34 methods until the new ones have been proven  
35 preferable?

36 MS. FARLINGER: I think the process of looking at new  
37 methodologies, whether it's in fisheries  
38 management, whether it's enforcement or other  
39 things, is a combination of continuing to provide  
40 -- set priorities and provide the best service on  
41 the ground while testing new or evolving kind of  
42 methodologies and systems, and I think it's very  
43 much looking at, will share-base management, if we  
44 put it in place, affect enforcement? Will the new  
45 methodologies enforcement mean that we need less  
46 fishery officers on the ground? And in the  
47 meantime, the fishery officers continue to do the

1 work according to the work place for 2011/12.  
2 Q Is the funding in the next fiscal year for C&P at  
3 risk in this region?  
4 MS. FARLINGER: Not to my knowledge, but you've heard  
5 from the Deputy that the Department is undergoing  
6 an overall review of our processes.  
7 Q Thank you.  
8 MS. DANSEREAU: If I may, again, it depends on your  
9 definition of "at risk". Is the program at risk  
10 for enforcement? No. The level of funding is  
11 something that we will discuss according to  
12 priorities and according to new directions, as  
13 you've heard from both David and from Sue. So the  
14 program is not at risk. The level of funding may  
15 change.  
16 Q By "change" you mean be reduced?  
17 MS. DANSEREAU: Or, who knows, there might be -- it  
18 might be identified that some areas need to  
19 increase as well. So this is really a -- truly a  
20 balancing of priorities which can, where possible,  
21 shift funds to areas of greater priority.  
22 Q Thank you. I have one quite specific question  
23 here arising from the same area. Can you tell me,  
24 Ms. Dansereau, or anyone, what the -- how much  
25 money did conservation and protection receive in  
26 response to the Williams report? There seems to  
27 be some conflict in that on the record?  
28 MS. DANSEREAU: I was not there, so I can't speak to  
29 this.  
30 Q Mr. Bevan?  
31 MR. BEVAN: I was there, but I can't recall the exact  
32 number, and I would be loathe to say one. One's  
33 popping around in my mind, but I can't verify  
34 whether it's accurate, so I don't have that off  
35 the top of my head.  
36 Q Is that something that you would be able to  
37 determine for tomorrow?  
38 MR. BEVAN: I think so, yes.  
39 Q Thank you very much. One of the issues that  
40 arises, I think, in the context of the operational  
41 and strategic review is the -- finding other  
42 people to do things that DFO does and offloading  
43 some of its responsibilities. In one of the  
44 issues, in one of the areas where this arises in  
45 catch monitoring, in the Williams report in 2005,  
46 the observation is that:  
47

1 Accurate [catch monitoring] is one of the  
2 core responsibilities for any credible  
3 fisheries management agency. Simply put, if  
4 harvest levels, including all mortalities,  
5 cannot be accurately estimated, fisheries  
6 cannot be carried out without significant  
7 risk to the stocks.  
8

9 At the time Bryan Williams heard that, heard  
10 testimony in the B.C. Interior, there was a:

11  
12 ...wholly inadequate situation regarding  
13 catch monitoring...directly attributable to  
14 continually declining and uncertain levels of  
15 funding.  
16

17 That was in 2004. Now, in 2011, Mr. Jantz gave  
18 evidence here, he's the area chief of the B.C.  
19 Interior, that catch monitoring there relies  
20 significantly on B-based PICFI funds that are not  
21 expected to be continued after next March, and  
22 that even at current levels he does not have full  
23 coverage of the fishery in terms of geography or  
24 duration.

25 So if catch monitoring is so important and is  
26 one of DFO's core responsibilities, why isn't it  
27 more stably funded? Ms. Dansereau?

28 MS. DANSEREAU: I'll answer part of that, and obviously  
29 David and Sue can answer other parts. But I want  
30 to go back to one of the first words that you  
31 used, which was "offloading" of our core  
32 responsibilities, which we are not doing. We are  
33 defining, as governments always should, what are  
34 the core responsibilities of the Federal  
35 Government and of the Department. Often what will  
36 happen in a department that's as old as ours is we  
37 can have mandate creep and we start doing things  
38 in decentralized organizations that we probably  
39 are doing too much of some things and we need to  
40 pull some of those back and exercises, such as  
41 strategic review and the deficit reduction action  
42 plan, or strategic and operating review, do  
43 exactly that, they force us, and rightly so, to go  
44 back and look at what we are doing and to ask the  
45 question, "Should we be doing this? Is that  
46 really our responsibility?" And where things are  
47 not our responsibility, but they are important to

1           Canadians, we hope to be able to find ways to  
2           continue to have that work done somehow.

3           So whether or not all monitoring is equally  
4           important in all rivers or in all fisheries, I  
5           don't think we can categorically say, "Yes," but  
6           clearly monitoring is going to be important,  
7           regardless. So I'll let David speak more on the  
8           specifics of the question, but I need to make sure  
9           that we don't appear -- we're not offloading our  
10          responsibilities.

11         Q     Just to be clear, Ms. Dansereau, are you  
12               suggesting that contrary to what -- the words in  
13               the Williams report, that accurate catch  
14               monitoring is one of the core responsibilities of  
15               any credible fisheries management agency? Are you  
16               questioning --

17         MS. DANSEREAU: I'm not questioning that, no.

18         Q     Okay.

19         MS. DANSEREAU: No, not at all. I'm questioning -- it  
20               was --

21         Q     So then, when you're speaking --

22         MS. DANSEREAU: -- the very beginning of your statement  
23               was that we are planning to offload some of our  
24               core responsibilities, and I was saying, "No, we  
25               are not doing that." Now, whether or not everyone  
26               would agree that monitoring is core in every  
27               single area that we are, I don't know the answer.  
28               I would be seeking advice on that. But I'll let  
29               David answer to the specifics.

30         Q     The evidence we have is that it is, to some  
31               extent, in any event, being covered by B-based  
32               PICFI funding, which is sunseting in 2012. So  
33               just focusing on that fact, what is your response?

34         MS. DANSEREAU: If I may, we've heard a few times this  
35               morning the idea that because something is  
36               sunseting it will disappear. And the approach of  
37               sunseting and D-based money, I realize that for  
38               some people in the bureaucracy it's nervous-making  
39               for them, that programs are time limited. But, in  
40               fact, what time limited money does is ensure that  
41               at a certain point there is a serious evaluation  
42               of the usefulness, the utility of all the elements  
43               of that program, and if they're no longer useful,  
44               they should stop being done.

45               So it's almost a mini strategic review of  
46               each program as it reaches its end point. Some  
47               are truly designed to be five-year programs and

1           come to an end; others are designed to be reviewed  
2           and for us to go and seek additional funds to  
3           either continue -- discontinue some parts or  
4           continue some others. So we have no position, at  
5           this table, at this point, that the money is  
6           either going to be there or not be there.

7           As you've heard from Sue Farlinger, we are in  
8           a review of all of our sunseting programs, and we  
9           will be determining from those which are the  
10          elements that ought to go forward, maybe with  
11          increased requests for money, and which we could  
12          potentially do without.

13        Q    Mr. Bevan, do you have anything to add on the  
14            catch monitoring issue?

15        MR. BEVAN: I think I'd agree, obviously, that catch  
16            monitoring is an essential component of management  
17            of fisheries. Having said that, I don't believe  
18            that it's the responsibility of the organization  
19            such as DFO to do it, that is to say, to cause all  
20            of these things or to actually collect the  
21            information directly from the landings.

22            What it is our responsibility, is to ensure  
23            that it is done, and in many fisheries, for  
24            example, we have hail in/hail out provisions where  
25            you're going out to fish, "What did you catch and  
26            what are you saying you caught?" You have to  
27            declare what you're catching, then you have to  
28            land. It has to be dockside monitored. It has to  
29            go through, sometimes, observer process as well.  
30            All those datasets are then compared amongst  
31            themselves so that we can make sure there's no  
32            anomalies. An observed boat should not have a  
33            different catch than an unobserved boat.

34            And the fishermen, in those cases, pay for  
35            the observers. They pay for the dockside  
36            monitors. They pay for the hail in/hail out  
37            calls. They often pay for the vessel monitoring  
38            systems, etc. That's their responsibility to give  
39            us the information we need to ensure that the  
40            stocks are sustainably managed.

41            And clearly, in some fisheries, we don't need  
42            to go that far, because the risks posed by the  
43            fisheries relevant to the biomass is very much  
44            different, so we need to know the scale of the  
45            fishery. If you have a small, recreational  
46            fishery on an abundant stock, you just want to  
47            make sure you have an idea of what ballpark you're



1 in. You don't need to go down the point of  
2 imposing very significant costs on participants if  
3 the risks don't warrant it.

4 That's the kind of call we're going to have  
5 to make in terms of interior fishing. If there's  
6 high risk, we're going to have to find a way to  
7 get that information enhanced. If the risk is  
8 low, because the period of the fishing is not a  
9 significant contributor to the overall mortality,  
10 then you don't have the same level of obligation  
11 to impose those criteria on the participants.

12 So it's a matter of what's the right balance,  
13 given the circumstances, but you do need to have  
14 enough information to know where you are relevant  
15 to the ability of the stock to withstand fishing  
16 mortality and what that fishing mortality is. But  
17 I'm not sure that we should be the ones who  
18 actually collect the information; we should be the  
19 ones who get it from the participants and from the  
20 various people who can provide alternatives,  
21 whether it's an observer or a buyer or whatever,  
22 and that information has to be made available to  
23 us in a useable fashion so that we aren't getting  
24 information a year afterwards in a sales slip but,  
25 rather, getting information in real time.

26 And we've seen tremendous changes in  
27 compliance in a number of fisheries, as we've  
28 moved to that kind of model where it's the  
29 obligation of the fisherman and the participants  
30 to tell us how they're going to demonstrate  
31 they're in control and that they're compliant with  
32 the requirements. It's a reverse onus of proof in  
33 those cases. It's not our obligation to prove  
34 them that they are out of control, we do that in  
35 court, but on an ongoing basis it's their  
36 obligation to prove to us and the market and the  
37 Canadian public that their harvest is sustainable.

38 Q Would you agree, though, that to the extent the  
39 monitoring is being left to the monitored, you  
40 need to have a very robust system of oversight and  
41 audit of what they're doing, and that's not going  
42 to be cheap, either?

43 MR. BEVAN: Well, the monitoring, in those cases, is  
44 not left to the monitor. The monitoring is paid  
45 for by the participants. They pay the dockside  
46 monitors. They pay the observers. They pay the  
47 costs for the transponders. They pay the

1 transmission costs for giving the data, et cetera.  
2 So they pay the bill and we do the auditing,  
3 that's correct. And the auditing does have a  
4 number of ways of being made more effective. If  
5 you have different datasets from different  
6 independent sources, you've got to -- an ability  
7 to do the comparison.

8 Clearly, in the river system, when you're  
9 dealing with an artisanal FSC fishery or something  
10 of that nature, you're not dealing with something  
11 where you've got a group of people with the  
12 capacity to run elaborate systems, then we're  
13 going to have to take a look at how those harvests  
14 could pose a risk to the stock, or not, and what  
15 kind of level of control we need on them. But  
16 it's not the fox guarding the chicken coop; it's  
17 the participants paying for an independent  
18 monitoring process.

19 MS. FARLINGER: I think I'd just like to add that part  
20 of the PICFI funding went in two directions, one  
21 is to the Integrated Salmon Dialogue process,  
22 which addressed the issue of catch monitoring from  
23 the stakeholders' perspective and First Nations'  
24 perspective, as well as the catch monitoring  
25 strategy, the development of previous work, taking  
26 it out to various groups, including First Nations,  
27 recreational and commercial fishermen, and  
28 environmental groups, and looking at exactly how  
29 DFO would establish standards. And I think you  
30 have heard from Colin Masson on that, about the  
31 report and the work that he's done under the PICFI  
32 funding, and the catch monitoring strategy that  
33 now has been out for consultation for, I think,  
34 almost a year. And that catch monitoring strategy  
35 does for the Pacific Region and all the fisheries  
36 in Pacific Region just what David says. It looks  
37 at the fishing power, it looks at various elements  
38 related to effective fisheries management and how  
39 you have to set standards for different kinds of  
40 fisheries, different fishing power, different  
41 situations, mixed stock situations and other  
42 things, so that DFO is in a position to do its job  
43 to set those standards. And so I would say that  
44 we're quite advanced on that work.

45 We did, in the interim with PICFI fund catch  
46 monitoring in the Upper Fraser that Mr. Jantz  
47 referred to. And part of that catch monitoring

1 strategy is both to inform us internally about the  
2 kind of risks that David talked about, but also to  
3 inform stakeholders who quite frankly to date have  
4 spent more time pointing fingers at each other  
5 than they have in working with us to develop catch  
6 monitoring standards. We have exceptions to that,  
7 which I think have been noted along the way. But  
8 this is partially a social and education process,  
9 which is really letting all the stakeholders know  
10 that the same criteria are being applied to  
11 developing their management standards, and to  
12 setting priorities. And therefore to take the  
13 work that we do bilaterally with any group or  
14 First Nation and put it into this framework so  
15 that people understand why the catch monitoring  
16 standards are there. That's sort of a really  
17 important social step that has been a very big  
18 part of the development of catch monitoring in  
19 PICFI.

20 Q Coming back to one of the points we've been  
21 discussing earlier, the reporting and the  
22 monitoring is to be done by the fishers, the  
23 monitoring is to be paid for by them, and the  
24 auditing is the responsibility of DFO is kind of  
25 the structure that I understand from the evidence  
26 from what I've heard this morning.

27 One of the issues that was identified again  
28 by Mr. Nelson was that C&P has concerns as to the  
29 accuracy of catch reports, and he testified that  
30 fishery officers have provided illegal catch  
31 information to resource managers, but that  
32 information has not been used. He also noted that  
33 fishery officers are not regularly involved in  
34 auditing catch reports. Do you believe that  
35 fishery officers should be involved in catch  
36 auditing, given their powers of search and  
37 inspection, Mr. Bevan?

38 MR. BEVAN: I'd say that, yes, they should be involved  
39 in the catch auditing, where that's a priority for  
40 that particular set of risks in that particular  
41 fishery. They need the right tools. If the tools  
42 aren't there in terms of getting the information  
43 datasets, then how do you audit if you're waiting  
44 for a year for sales slips and information and  
45 paper. That's not a very effective set of tools  
46 for fishery officers. So they need the right  
47 tools. That's something that has to be worked on

1 with the catch monitoring system, and fish  
2 managers.

3 The other issue is what's the estimate based  
4 on, what kind of data did they have, and how much  
5 risk was posed by the additional catch, and was it  
6 something that would require priority on the other  
7 side of the house, the management side. So I  
8 think salmon is not in the best situation in  
9 British Columbia, relevant to especially the  
10 Fraser River, given the number of participants,  
11 the kinds of fisheries and the systems that have  
12 been in place in the past, versus what we think is  
13 needed in the future. But there's work underway  
14 to change that, and it is a challenge, no question  
15 about it, when you're dealing with so many groups  
16 and particularly when you're dealing with groups  
17 exercising an FSC right, and they don't have a lot  
18 of infrastructure, et cetera, for these things.  
19 If you're dealing with commercial groups or  
20 recreational groups that have more resources, then  
21 there is the potential for having a much more or  
22 quicker transformation to that new model.

23 So I agree that there should be some work  
24 done on auditing, but there needs to be the right  
25 set of tools, otherwise the task becomes  
26 insurmountable for the C&P folks. And does it  
27 become a priority for them if they don't have an  
28 outcome? Because that's another issue that we ask  
29 them to do is don't spend resources where you're  
30 not going to have an outcome to control the risk.

31 Q And as I understand at the moment the catch  
32 monitoring audit piece is not something that the  
33 fisheries officers are doing. Will they have the  
34 resources to do that?

35 MR. BEVAN: Again, that's not resources. What it is,  
36 is tools, and tools don't mean more money. Tools  
37 mean that there has to be a system of catch  
38 monitoring in place that provides fishery officers  
39 with the information that will then allow them to  
40 be much more focused. So it's not more fishery  
41 officers doing a bad system, it's the fishery  
42 officers getting the tools to a better approach,  
43 and getting better outcomes with the resources  
44 they've got.

45 Q But as I understand it, this is a job which  
46 they're not currently doing. If we're asking  
47 fishery officers to add that to their

1           responsibilities, do we not need more fisheries  
2           officers to do that?

3       MR. BEVAN: No, what we need is to follow up on the  
4           work that was described by Sue Farlinger about the  
5           changes in the catch monitoring so that we'd  
6           provide the tools to the officers so they can get  
7           an outcome, they can get compliance, they can get  
8           what they need, without having -- you know, we  
9           could solve this problem if we had a fishery  
10          officer at every landing point 24/7. We could  
11          definitely solve the problem. We turn them into  
12          catch monitors, and we take a highly trained,  
13          expensive-to-put-in-place public servant, and turn  
14          them into somebody who's not exercising the whole  
15          suite of skills they've got. So that's not what  
16          we want to do. We want to have a different  
17          approach so that the officers can get the  
18          information they need to use for investigations.

19       Q       Ms. Farlinger, you agree then that having  
20           fisheries officers and the C&P and catch  
21           monitoring programs more closely aligned is a good  
22           thing to do?

23       MS. FARLINGER: Yes, I do.

24       Q       What about Mr. Nelson's observation that there's  
25           not enough resources now among fisheries officers  
26           to do that?

27       MS. FARLINGER: I think the idea that using the  
28           resources we have in the most effective way is the  
29           answer to that question, and I think as Mr. Bevan  
30           mentioned, Randy may have been thinking very much  
31           in the traditional on-the-ground fishery officer  
32           way of doing business. And I think the reality  
33           is, is we're looking for the balance between  
34           having people on the ground and doing this other  
35           kind of more sophisticated work, and the kind of  
36           catch monitoring systems on the stock assessment  
37           and the fish management side that make all that  
38           work together for more effective monitoring. And  
39           I think much of the work that we've done in PICFI  
40           is aimed at doing exactly that.

41           And also the reorganization in the Department  
42           of having all the operational programs in a single  
43           grouping and better coordination of the work  
44           planning, rather than a rather more traditional  
45           model of siloed work planning, is the kind of  
46           things that -- are the kinds of things that will  
47           allow us to in fact find that right balance. And

1           it will always change. It will always be one  
2           fishery or another that is more problematic  
3           because of fish abundance, because of some other  
4           problems. And we need to maintain that fluid  
5           balance so we can deliver the best possible  
6           monitoring.

7           Q    As I listened this morning, I get the sense that  
8           you believe that there's a better way, but how  
9           that all works is still undefined and the  
10          Department is working on that. And I've provided  
11          some snippets of evidence from people on the  
12          ground saying no, we need more people on the  
13          ground, good old fashioned stuff. And I guess  
14          that raises in my mind, well, what if these new  
15          ideas don't come to fruition, what do you do in  
16          the meantime.

17         MR. BEVAN: Just on a national perspective, I can  
18         definitely tell you these ideas are not  
19         necessarily that new, and they do work. They've  
20         been proven. So where we've introduced these  
21         procedures in different fisheries, the officers  
22         have had a much greater ability to get at  
23         compliance issues. They spend a little less time  
24         in the field and they spend more time in front of  
25         computers, but the outcome is a much greater  
26         accountability on the part of resource users and  
27         the people out there on the water doing the  
28         fishing. So we've seen that this actually is a  
29         very well-proven way of getting results. The  
30         challenge is that it's -- is fitting these kinds  
31         of ideas to fisheries where you have myriad  
32         participants and not a lot of resources on the  
33         part of some of those participants to take on  
34         these responsibilities to provide that information  
35         through a third-party service provider. So that's  
36         the challenge.

37                 It's not so much are these concepts workable;  
38                 they work. They've been proven in Canada and  
39                 around the world. They do work. The issue is how  
40                 do we improve the situation to deal with risks  
41                 that may exist in the salmon fishery, and not to  
42                 do it by, you know, we've done this in the past,  
43                 we've put lots of people on the river, and we've  
44                 had problems in terms of cost of that, relevant to  
45                 presence elsewhere, and I'm not sure we got the  
46                 results that would warrant -- in other words, it's  
47                 a very expensive option to have compliance through

1 continued day and night presence. We need to find  
2 a better way to do it. We know there are better  
3 ways, and it's a matter now of identifying the  
4 risks, which areas do we have the fishing power  
5 that compose the risks to the stocks and change  
6 those on a pilot and priority basis.

7 MS. FARLINGER: So just to try and answer your  
8 question, I think that to put it most simply in  
9 fisheries management, if we are not confident  
10 about the monitoring or getting the kind of  
11 information that we need as a responsible manager,  
12 what we do is decrease access to the fishery in  
13 order to be more conservative. I think that's a  
14 useful general statement.

15 I think that speaks to the evolution of the  
16 integrated groundfish fishery that the Deputy  
17 referred to earlier, where the fishermen were  
18 cognizant of the benefits, both for their own  
19 operations and for marketing in terms of being  
20 able to demonstrate the sustainability of their  
21 fishery, in that they were dealing with what in  
22 salmon we call the weak stock problem, and in  
23 groundfish we call the bycatch problem. Those  
24 fundamentally are things that drive how a fishery  
25 gets managed.

26 So really what we're talking about here is  
27 taking things that are already in play. We have  
28 piloted demonstration share-based fisheries in  
29 salmon over the last five years with the  
30 resources. We've taken a look and are in the  
31 process of taking a look at what that means. Did  
32 we get better reporting? Did the fishermen get  
33 higher value? Were there processing advantages?  
34 Were there solutions to allocation problems? So  
35 the suite of fishery management questions that you  
36 ask, and then ultimately, were we better able to  
37 meet the conservation targets while still  
38 providing people with the access to the fish? So  
39 those are the kind of fundamental questions that  
40 we're asking ourselves about the salmon fishery  
41 and all other fisheries. And as David said, in  
42 some fisheries in Pacific we have moved ahead, in  
43 some in the Atlantic coast we have moved ahead,  
44 and we're continuing to try and work our way  
45 through those exact challenges in the salmon  
46 fishery, which is very complex.

47 Q I may come back to this, but for the moment I

1 wonder if we could move on now to issues of  
2 habitat monitoring and compliance. In the DFO's  
3 1986 Habitat Policy, it states there, there's a  
4 guiding principle there should be no net loss of  
5 productive capacity of habitats. We've heard from  
6 Jason Hwang, Area Manager of OHEB in B.C.  
7 Interior, that from the operational level all  
8 indications are that DFO is not achieving no net  
9 loss. Patrice Leblanc, Habitat Management, Policy  
10 and Practices Branch said that DFO has no true  
11 measure to assess whether it is achieving no net  
12 loss. Would you agree that DFO is not meeting its  
13 objectives under the Habitat Policy and achieving  
14 no net loss?

15 MS. DANSEREAU: I would say that the first part of the  
16 statement is the one that is critical, and that is  
17 that no net loss is a guiding principle, as  
18 opposed to necessarily a metric that was ever  
19 intended to be measured on a centimetre-by-  
20 centimetre for habitat. I would say that we have  
21 areas that we can certainly improve on, but I  
22 don't think that the intention was ever that it  
23 would be that categoric. We are, as I think you  
24 know, looking at how to improve the system by  
25 taking the principle of no net loss potentially to  
26 a ecosystem base, rather than a project-by-project  
27 base, to allow us to achieve the intended  
28 outcomes, which is to make sure that the fish have  
29 the habitat that they need in order to survive and  
30 to thrive.

31 Q Since I'm not sure I understand the answer, Ms.  
32 Dansereau, are you saying it wasn't intended to be  
33 a policy that's measurable? I'm not quite sure I  
34 understand.

35 MS. DANSEREAU: I don't think any of us at this table  
36 were actually here for the drafting of that policy  
37 in '86, but...

38 Q It is still the policy.

39 MS. DANSEREAU: It's definitely still the policy -  
40 definitely still the policy - and it has been over  
41 time translated into meaning that it is no net  
42 loss centimetre-by-centimetre of habitat. And I  
43 don't think, and no one has told me so far that  
44 that was the original intention. That is a  
45 guiding principle. It would be the original  
46 intention was to make sure that the fish have the  
47 habitat that they need in order to survive and to



1 thrive, and that is still the intent that we try  
2 to apply. So I can't speak to what the intention  
3 was in 1986, I can say how (indiscernible -  
4 overlapping speakers).  
5 Q Well, but let's look at it from today. How is it  
6 being interpreted, what is it that the Department  
7 is doing, and I'm not quite sure how is success,  
8 how is meeting this policy to be measured?  
9 MS. DANSEREAU: We do at this point take the approach  
10 that it is for every piece of habitat loss and  
11 every piece of habitat must be created or we find  
12 some way to compensate. And we are doing it at  
13 the project-by-project -- using the project-by-  
14 project approach.  
15 Q So you're seeking to do it at the present, but...  
16 MS. DANSEREAU: No, we are, in our authorizations we  
17 seek -- well, we seek to do it within our  
18 authorizations, yes. We are not, I think we can  
19 all say, as proficient at going back and  
20 monitoring to make sure that every project that we  
21 approved actually resulted in the protection that  
22 might have been required. So we are in continuous  
23 -- in this as in all things, in continuous mode of  
24 trying to find better ways to do that, and better  
25 ways to actually achieve protection for the fish,  
26 which is what the intent of this is.  
27 Q What are you doing to address the fact that you're  
28 not properly auditing the application of the  
29 policy on a project authorization basis?  
30 MS. DANSEREAU: Well, it's a big country and there are  
31 very -- there are many levels of projects in the  
32 country, and so those projects that are of greater  
33 magnitude, both financially and with the  
34 environmental impact, will receive greater  
35 attention both in the analysis of the project and  
36 its impacts, and in taking a look at it over time.  
37 So some of the smaller projects, it's true, we  
38 will not have -- again, we will not have the  
39 resources to go back and take a look at all of  
40 them. But again it's a risk-based approach to  
41 determine which projects pose the greatest risk to  
42 HAAT fish, and they will require -- they get  
43 greater attention than those that pose a lower  
44 risk.  
45 Q And so would it be fair to characterize the state  
46 of the policy and it's application today that it's  
47 applied on a project-by-project basis where

1           authorizations are required and the larger the  
2           project, the more likely it is that the results  
3           will be audited.

4       MS. DANSEREAU: I would say that that's true, but Sue  
5           can speak more from an operational perspective,  
6           but I would say that that's true.

7       MS. FARLINGER: We do have resources in terms of  
8           monitoring habitat, but part of the program  
9           renewal that we're working on is to look at how in  
10          fact can you measure this in a way that can be  
11          reported back to fishermen, to environmentalists,  
12          to Canadians, and the whole idea of expanding out  
13          to an ecosystem approach, perhaps in this  
14          instance, a watershed approach, really we hope  
15          will give us ways to develop monitoring on a  
16          broader scale that will help us report to  
17          ourselves and to the public about how effective  
18          the habitat program is. And that's really one of  
19          the focuses of the renewal in terms of taking a  
20          policy that was developed in 1986, which all of a  
21          sudden has become an expectation that we can  
22          measure and now modernizing it and saying what are  
23          we going to do with this program that we can  
24          measure, and we can report back, and demonstrate  
25          just how DFO programs are protecting habitat.

26       Q       So I think the two cases of this, as I understand  
27           what you're telling us, it's only applied on an  
28           authorized project-by-project basis, and you are  
29           trying to figure out to apply it to an ecosystem  
30           management, broader, not simply a project basis,  
31           so it's -- you would agree that it's not being  
32           applied in that broader way.

33       MS. DANSEREAU: I don't think I would go that far, and  
34           I don't have the evidence to support that kind of  
35           a statement. I do think what we have been doing  
36           is since 1986 is with great thought and concern by  
37           a lot of people in the Department, long before I  
38           was ever there, giving due consideration to what  
39           the fish required in their habitat across the  
40           board and not -- and so whether or not the  
41           specifics of no net loss were met on a case-by-  
42           case basis, I don't think we can say, and I don't  
43           think we would say.

44                    But the principle that the policy was trying  
45           to address, which is to ensure that the fish have  
46           a sound habitat in which to survive and thrive,  
47           that principle is very much alive and well in the

1 Department through monitoring, but also through a  
2 project-by-project approach. Yes, we would like  
3 to expand it out and make it broader, but  
4 together, if all of the people are of like mind  
5 that are working in this program, they do end up  
6 with an ecosystem approach, ecosystem-based  
7 approach.

8 Q The 2009 report of the Commissioner of Environment  
9 and Sustainable Development recommended that DFO  
10 determine what actions are required to fully  
11 implement the 1986 Habitat Policy, and confirm  
12 whether it intends to implement all aspects of the  
13 policy. And DFO's response in 2009 was that by  
14 March of 2010, it was committed to -- it was  
15 committed that by March 2010 it would determine  
16 what actions are required to fully implement that  
17 policy. So that commitment was made in 2009, and  
18 the evidence we've had, and I think it's  
19 consistent with what you're telling us this  
20 morning, is that you're still working on renewing  
21 and improving and applying this policy. Why has  
22 this taken so long?

23 MS. DANSEREAU: It's a complicated policy, and it's, as  
24 I said before, it's a big country. We have many  
25 types of ecosystems, many types of projects, many  
26 types of expectations from the policy and from the  
27 Department. So it was, I think, overly optimistic  
28 for us to think that we could have finished by  
29 2010. It will take us another little bit of time  
30 yet.

31 And I actually think that these kinds of  
32 statements should have a broader endpoint because  
33 they should always be under review. We should  
34 always be looking at how we do things and whether  
35 or not we can improve on what we do. And so there  
36 will never be a point, in my view, where we've  
37 actually reached nirvana and know exactly what the  
38 perfect answer is.

39 Q However, there was a commitment made --

40 MS. DANSEREAU: Yes.

41 Q -- and so can you be more specific about when you  
42 intend to meet that commitment?

43 MS. DANSEREAU: We're working very hard on this with  
44 staff across the Department, and we have not yet  
45 even begun consultation, so we would have to have  
46 some consultation on this. But our hope is to  
47 have -- and I say a hope, I can't say a firm

1           definitive, because there are other factors that  
2           affect our timeline, but I certainly hope that by  
3           this time next year we have a new Habitat Policy.

4           Q     You have a new Habitat Policy.

5           MS. DANSEREAU: Mm-hmm.

6           Q     So that's not the -- that wasn't the commitment, I  
7           think. The commitment was to report on where you  
8           were on implementing the existing one, by March  
9           2010 determine what actions we need to fully  
10          implement the Habitat Policy.

11          MS. DANSEREAU: Well, no, but through this work we're  
12          confirming whether it intends to implement all of  
13          this, and that all of that leads to research into  
14          what parts of this we ought to be continuing, as I  
15          said earlier, and what parts of this we should be  
16          doing a little bit differently, and that's part of  
17          that.

18          Q     So by September of 2012.

19          MS. DANSEREAU: As I said, I hope; I can't commit.

20          Q     We've heard that -- one of the aspects that you've  
21          alluded to is the monitoring of the habitat by a  
22          -- on a project authorization basis, and perhaps  
23          are there some attempts here to streamline, build  
24          efficiencies into the habitat monitoring program  
25          this way?

26          MS. DANSEREAU: Yes, there are, but there's also an  
27          attempt to -- mostly there's an attempt to  
28          prioritize it. So there are some areas that the  
29          fisheries are not either iconic, culturally or  
30          economically, or otherwise, as in other parts of  
31          the country, and the risks to their fisheries by  
32          certain activities are not as high as they would  
33          be around Fraser sockeye, for example. So by  
34          Fraser sockeye will always have a very high place  
35          on the priority list, and who knows, at the end of  
36          this process whether or not more attention would  
37          not be placed on the habitat requirements for the  
38          Fraser sockeye, as then other fisheries that the  
39          habitat is much more stable and the impacts are  
40          not quite as meaningful.

41                 So again it's a question of prioritizing to  
42          make sure that we are putting our resources in the  
43          right places, and having a risk-based approach,  
44          so that we're not using the same level of  
45          resources for activities that have a much  
46          different risk profile.

47          Q     One of the -- remind me, the Environmental Process

1 Modernization Plan I think is the --  
2 MS. DANSEREAU: Mm-hmm.  
3 Q -- code word for looking at - wrong expression -  
4 is the program by which the major projects are  
5 identified and voluntary reporting is in place for  
6 smaller projects, is that...  
7 MS. DANSEREAU: A little bit. There are two or three  
8 program areas, one is the Major Projects  
9 Management approach, which is for very high risk  
10 projects, and a lot of attention is placed on  
11 them. I think -- I don't normally use acronyms,  
12 but unfortunately I know this one by the acronym,  
13 the EFMP, is a program -- pardon?  
14 Q EPMP.  
15 MS. DANSEREAU: EPMP - there you go - is a risk-based  
16 approach, is work that was done in the mid 2000s,  
17 I think, to start the process of taking a risk-  
18 based approach and working with proponents on  
19 projects so that they had the information that  
20 they needed in order to make decisions that would  
21 result in not creating a harmful alteration to the  
22 habitat. So that's the beginning of a risk-based  
23 approach, and we need to continue in that line of  
24 work to make sure that we're putting our resources  
25 in those areas where there's the greatest  
26 likelihood of us making a positive difference.  
27 Q But is it not correct that one of the impacts of  
28 this that smaller projects are now carried on  
29 below DFO's radar?  
30 MS. DANSEREAU: To some extent, yes, but we, as I say,  
31 we have materials that people are supposed to be  
32 using and are using to make decisions on the kinds  
33 of projects -- on the project that they will  
34 implement. And we do some monitoring, and Sue, I  
35 think, can speak much more to the implementation  
36 of that. We think it's working.  
37 Q But before you answer that, Ms. Farlinger, just to  
38 put it into perspective, we've had some, again,  
39 evidence in this case from Mr. Hwang with respect  
40 to some of the implications that he sees from the  
41 voluntary reporting, that there has been a re-  
42 emergence of unsustainable practices on foreshore  
43 development, and where previously there has been  
44 some control. And I guess there are issues of  
45 overall impacts for a number of small projects,  
46 and that essentially I think he's saying it's not  
47 working well at that level. Can you comment on

1           that?

2       MS. FARLINGER: I can. I think the intention is fairly  
3       clear, which is to set out the information for  
4       people who are working on and around water to tell  
5       them how to do a project in a way that wouldn't  
6       have an impact on fish habitat. And with experts  
7       like Mr. Hwang and his staff, that they focus  
8       their efforts on those projects which are more  
9       complex, and which in fact will have an impact and  
10      therefore, you know, require more analysis and  
11      work with the proponent in terms of how to not  
12      only avoid those impacts, but if they have them  
13      how to mitigate them and compensate for them.

14           And so I do think that there has been a  
15      shift, and there also has been a more recent shift  
16      in terms of monitoring resources to go back and  
17      take a look at this, that public education and  
18      information and whether it's being effective. And  
19      I think that is part of the reason, not only the  
20      report of the Commissioner on the Environment, but  
21      also taking a look at the program to make sure  
22      we've got that right balance, again between  
23      monitoring -- if we have a system where we're  
24      setting standards and monitoring becomes more  
25      important, we need to make sure that the program  
26      balances there.

27           So I am quite certain that there are areas  
28      where there is more activity, and our question is  
29      how do we adjust our resources of our habitat  
30      biologists and technicians time, and in fact  
31      fishery officers, where they're required, to make  
32      sure that those standards are being met.

33           And I can't comment specifically on Jason's  
34      experience on the ground, but I do think it is an  
35      ongoing challenge. There's more and more activity  
36      all the time, and really our challenge is to  
37      adjust this system so that we are doing the  
38      required monitoring so that people meet the  
39      standards, rather than having each and every  
40      project monitored or audited specifically by a  
41      habitat biologist. So once again it's a balancing  
42      to get the best effect, but there are more  
43      activities going on each and every year in  
44      Habitat.

45      Q     Mr. Bevan, does this major project approach  
46      account for the cumulative risks that come from a  
47      lot of small activities, and is there any way that

1 the Department is addressing those issues?  
2 MR. BEVAN: I think it's fair to say there's about \$300  
3 billion in planned economic activity in Canada.  
4 It's huge. There's vast numbers of small projects  
5 underway, et cetera. We've seen through the use  
6 of standards and through the use of class  
7 authorizations we've been able to reduce our play  
8 on proposals from about 12,000 a year down to  
9 7,000, but the workload is just exploding. And  
10 the old method of dealing with proponents and just  
11 talking to them about their plans and not going  
12 out and looking for compliance, not monitoring the  
13 effects, et cetera, that's not sustainable and  
14 that's why we're looking at re-evaluating things.  
15 But one of the things we want to do is set more  
16 standards and have that available for Canadians to  
17 use. And for example, when you're building, you  
18 have a building permit. You get that from  
19 contractors, et cetera, you don't necessarily --  
20 you get that process to get your process underway,  
21 and we want to have something similar.

22 We don't think it's the best use of time to  
23 have us looking at plans, and then not looking at  
24 the environment. That doesn't seem to make a lot  
25 of sense. So what we want to do is evaluate  
26 whether we can use more of these class  
27 authorizations linked to standards and linked to  
28 clear description to Canadians of what they need  
29 to do to comply with the **Fisheries Act**, and then  
30 having more monitoring to ensure that that's in  
31 fact taking place.

32 It's a huge challenge, and I mean, I think  
33 that the easiest way to stop any kind of  
34 degradation is to stop all human activities.  
35 That's not a very practical alternative, and I  
36 think we're going to have to look at what we are  
37 facing in terms of development of and society's  
38 need for a balance there to keep the ecosystem in  
39 a sustainable state, as well as allowing people  
40 the freedom to move ahead with projects. We need  
41 to do that by giving them better understanding of  
42 the rules, and to have better follow-through on  
43 projects.

44 Q A couple of points. Firstly, I don't think anyone  
45 would diminish the significance and difficulty in  
46 the task. And as I understand the process, you  
47 have obligations to get authority for large

1 projects as a voluntary compliance with smaller  
2 projects. And as you pointed out, there's not  
3 much monitoring, and I haven't heard anything  
4 about someone looking at the cumulative impacts.  
5 So my first question is, is somebody -- is there  
6 someone assigned to look at this issue from the  
7 perspective of the cumulative impacts of all of  
8 this myriad of human activity? Looking for anyone  
9 who can answer.

10 MR. BEVAN: No, because I think that the part of what  
11 was described in terms of how we're looking at the  
12 policy is the current policy is based on project-  
13 by-project, no net loss, net gain kind of thing,  
14 and your question is not answered by the current  
15 policy. What we need to do is look at how we're  
16 handling ourselves in regards to management of the  
17 impacts on habitat and to find a way of going  
18 forward. Because if you look at what we're doing  
19 right now, the answer is we don't have -- the  
20 cumulative impact is not being looked at. We're  
21 going to have to look at a different way of  
22 approaching things if we're going to have better  
23 understanding of that.

24 We are obviously looking at trying to  
25 preserve fish habitat, and avoid negative impacts  
26 from major projects, and providing people with the  
27 tools to not have a negative impact in putting in  
28 their wharves or their foreshore of their  
29 properties. But that's going to have to be  
30 further developed on our part, and we need to look  
31 at how to shift some of our resources from that  
32 into monitoring.

33 Q Okay. Ms. Farlinger, perhaps you can answer the  
34 question, the other point which I think I hear  
35 people saying is not up to scratch, is in  
36 monitoring the impacts of projects, even where  
37 authority has been granted and conditions have  
38 been put on it. Can you comment on the quality of  
39 the monitoring and your capacity in the region to  
40 do it?

41 MS. FARLINGER: Well, since early 2004 we have had more  
42 resources added to the region to do monitoring.  
43 We have worked with C&P to delineate the roles and  
44 responsibilities between the habitat monitors and  
45 C&P, so there have definitely been improvements in  
46 that area. But the larger question really, is no  
47 net loss a metric that can be measured. And if it



1           isn't, what is, and how would we then measure our  
2           success and be able to report back on it. So I  
3           think that's very much a part of the thinking in  
4           terms of the whole program renewal and the review  
5           of the policy. So I think I would say, yes, we do  
6           monitor, but is it enough? No, and that's why we  
7           need to take a look at it. And really even to be  
8           able to understand at what scale we should be  
9           measuring that to report success of it.

10          Q       Thank you. Mr. Bevan, I wonder if I might ask you  
11                   a related question, which is your relationship as  
12                   a Department with Environment Canada. What is  
13                   your understanding as to whose responsibility it  
14                   is currently, yours, your Department's or  
15                   Environment Canada's to research and monitor for  
16                   contaminants and their effects on Fraser River  
17                   sockeye?

18          MR. BEVAN: I think I'll turn this over to the Deputy  
19                   for a more complete answer, but clearly the s. 36  
20                   has been the responsibility of Environment; s. 35  
21                   the responsibility of DFO. That's the simple  
22                   answer, and I know there's much more completeness  
23                   to an answer, I turn it to the Deputy.

24          Q       Ms. Dansereau?

25          MS. DANSEREAU: Thank you. Yeah, it is a complicated  
26                   situation and it is a decision that was made as we  
27                   call it in our language, the machinery world, as  
28                   the machinery changed, made in I think it was the  
29                   mid-1990s, to transfer responsibility from DFO to  
30                   Environment Canada. However it wasn't a -- I  
31                   think there were some areas that were left unclear  
32                   in that transfer. And so the Deputy Ministry of  
33                   Environment Canada and I are working our way  
34                   through that right now, obviously with  
35                   recommendations that we will be making to our  
36                   respective Ministers to see the best way to --  
37                   with the resources that we have to achieve the  
38                   objectives that we need to achieve, or that s. 36  
39                   is trying to achieve.

40          Q       So then I take it you accept that it's not clearly  
41                   out of your hands to look into the monitoring and  
42                   research, and I'm being quite specific here,  
43                   monitoring and research and contaminant effects on  
44                   fish?

45          MS. DANSEREAU: I wouldn't say that it's not out of our  
46                   hands. It is out of our hands, but there were  
47                   pockets in the country when the transfer was made

1 where we retained some of the responsibilities,  
2 and that is what we're looking at right now. But  
3 the transfer has been made. Funds were even  
4 transferred over. But there were areas where by  
5 mutual agreement, I think, and back in the time  
6 when this was done, where there was mutual  
7 agreement for us to continue doing some pieces of  
8 the work. And that's what we're looking at now to  
9 see really where the responsibility for this  
10 should lie.

11 Q We have an Exhibit 980, "Strategic Review of Toxic  
12 Chemicals Research" which was prepared in 2003 by  
13 DFO, and at page 2 it says:

14  
15 DFO's mandate states that it is responsible  
16 for policies and programs in support of  
17 Canada's economic, ecologic and scientific  
18 interests in oceans and inland waters, and  
19 for the conservation and sustainable  
20 utilization of Canada's fisheries resources  
21 in marine and inland waters.

22  
23 And I emphasize this:

24  
25 Conservation and protection can only be  
26 achieved by understanding how all  
27 anthropogenic and natural stresses, including  
28 the introduction of toxic chemicals affect  
29 the ability of aquatic ecosystems to  
30 withstand these stresses and the capacity of  
31 fish habitats to sustain the production of  
32 fish.

33  
34 The overall objective of the Department's  
35 toxic chemicals research has been to  
36 determine the effects of toxic chemicals on  
37 fish, fish habitat, aquatic ecosystems, and  
38 human use of...aquatic ecosystems.

39  
40 Are you saying that that's not part of DFO's  
41 mandate?

42 MS. DANSEREAU: I think Laura would be better placed to  
43 address this, a purely scientific question such as  
44 this. But I'm not reading these paragraphs to  
45 mean that we should be doing the actual monitoring  
46 of the toxic substances, which I think is where  
47 the management or the enforcement which is where

1           -- that's a different question than whether or not  
2           we should be studying whether or not the toxic  
3           substances will have an impact on the fish. So I  
4           read this more as science and research rather than  
5           enforcement and monitoring.

6           Q     It seems to be a direct link between the two,  
7           isn't there, between research and monitoring on  
8           this particular (indiscernible - overlapping  
9           speakers).

10          MS. DANSEREAU: I'm not sure, it's a little as David  
11          described before on the catch monitoring, it's not  
12          that -- it's not necessary that we actually do the  
13          monitoring, it's important that we have the data.  
14          And in the federal system we do share data. So if  
15          there's data available through a monitoring  
16          system, it doesn't matter if it's DFO that does  
17          it, or if it's Environment Canada.

18          Q     Yes. So I take it that you accept that the  
19          research is DFO's responsibility, but that doesn't  
20          necessarily mean that monitoring for contaminants  
21          in anadromous fish is DFO's responsibility.

22          MS. DANSEREAU: I would say that's true, and again it's  
23          a matter of the Department's making sure that we  
24          get the maximum work with the best utilization of  
25          resources. So Environment Canada may be better  
26          situated to do some of this, because they do it  
27          for other reasons, as well. They do some of this  
28          for human health, and some of it for other  
29          factors. And so if they are developed -- if they  
30          are getting some data, then we would use the data  
31          for what we need.

32                 Now, whether or not I would agree that we ---  
33          that this is a priority for this year, I think in  
34          a general sense, yes, but if -- I don't know how  
35          it fits with our overall Science program. But I  
36          do know that if we wanted to understand fish in  
37          their ecosystem, it's important for us to  
38          understand this, as well. Whether or not even  
39          that is a core function of our Department, as  
40          opposed to getting the research from somewhere  
41          else, some other scientists having done that, it  
42          would be something that we would be looking at.  
43          So the knowledge clearly is important to us. how  
44          that knowledge is generated is something that we  
45          would look at.

46          MR. WALLACE: Thank you. Mr. Commissioner, I see it's  
47          come to be 12:30.

38  
PANEL NO. 65  
In chief by Mr. Wallace

1 THE COMMISSIONER: Thank you very much.

2 MR. WALLACE: Thank you.

3 THE REGISTRAR: The hearing is now adjourned till 2:00  
4 p.m.

5  
6 (PROCEEDINGS ADJOURNED FOR NOON RECESS)  
7 (PROCEEDINGS RECONVENED)

8

9 THE REGISTRAR: The hearing is now resumed.

10 MR. WALLACE: Good afternoon, Mr. Commissioner.

11

12 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:

13

14 Q Ms. Dansereau, before the lunch break, we were  
15 talking about the division of responsibility for  
16 contaminants and fish between DFO and Environment  
17 Canada. You advised us that discussions are going  
18 on about that between yourself and the Deputy  
19 Minister of Environment Canada. I just want to  
20 get a little more specific about some of those  
21 issues.

22 We heard earlier in these hearings from  
23 Sylvain Paradis, former Director General of  
24 Ecosystem, Science Directorate of DFO, that DFO  
25 does not view marine contaminants, research and  
26 monitoring as its responsibility. I heard you  
27 saying that about monitoring, but being, if I may  
28 say, slightly more equivocal about the relative  
29 responsibilities for research. But I compare that  
30 to the evidence of Dr. John Carey, the former  
31 Director General of Water, Science and Technology  
32 Directorate at Environment Canada, who testified  
33 that Environment Canada is not monitoring water  
34 quality in the marine areas, except as it relates  
35 to Canadian Shellfish Sanitation Program, and it  
36 was under the impression, Environment Canada, that  
37 is, that DFO was responsible for monitoring marine  
38 contaminants. So that, would you agree, is a  
39 difference of view from what you expressed this  
40 morning?

41 MS. DANSEREAU: Thank you for the question. If I may,  
42 I also would like to correct an error I made on  
43 this issue this morning --

44 Q Please.

45 MS. DANSEREAU: -- when I spoke about the date that the  
46 transfer of the so-called machinery change was  
47 made from DFO to Environment Canada, and I said it

1           was in the mid-1990s, but it was actually in the  
2           mid-1970s.

3           Q     '70s.

4           MS. DANSEREAU: Yes, and then an MOU was signed in the  
5           mid-1980s. And my understanding, not having been  
6           there, was that there were some pockets of work  
7           that remained at DFO, at least this is what I was  
8           told when I started looking into this. And I  
9           don't think -- it's clear that there are some  
10          differences of opinion between staff, some staff  
11          in the Department and that's why it's important  
12          for us now to be clearing up whatever those  
13          differences of opinions are. And when I say the  
14          Deputy and I are working on this, deputies never  
15          work alone, we work because people in the  
16          Department are working together and so folks  
17          inside of both departments are working their way  
18          through what the best advice is that they could  
19          give me to give to the Minister and my  
20          counterpart, his minister on this. So we will  
21          work our way through it. And again, it's a  
22          question of priorities, and I will take advise  
23          from our scientists, who will have to tell me the  
24          degree of risk that not doing that kind of toxic  
25          analysis or toxin analysis would pose for the  
26          fishery. And then together, inside the  
27          Department, we would have to determine whether or  
28          not we find a different way to get the information  
29          or we decide that it's not risky enough. I can't  
30          give you that answer right here, right now because  
31          I would be waiting for advice on that from the  
32          people who know.

33          Q     But you would agree at the moment, it appears that  
34          there is a gap in that neither DFO nor Environment  
35          Canada is doing monitoring of water quality in  
36          marine areas?

37          MS. DANSEREAU: I don't know. I can't say that  
38          specifically, no.

39          Q     Okay. Let's touch on research, then, for a  
40          moment. And I'm not sure I completely understood  
41          your evidence this morning, but I think it was  
42          that you aren't sure who has the responsibility  
43          for research on the effects of contaminants on  
44          anadromous fish, whether it's Environment Canada  
45          or DFO; is that correct?

46          MS. DANSEREAU: I think what I said was that I'm not  
47          sure, in all pockets of the country, how the

1 division of labour has been established. I'm also  
2 not sure, in every part of the country, whether or  
3 not it's been determined that that kind of  
4 research is essential. And so I would defer to  
5 Laura to give a better answer on how we would make  
6 that kind of determination and where I would get  
7 the advice on almost an ecosystem approach to when  
8 and how we should be doing that kind of research.  
9 So I wouldn't say in all cases it's an absolute  
10 requirement and our responsibility. In some  
11 cases, it could be done from a fish health  
12 perspective and that could be yet another body of  
13 the government. So fish health that could have an  
14 impact on human health, there are places for that  
15 to happen and so I'm not sure. I can't answer the  
16 question specifically because we're still working  
17 out what the priorities are. But even if it was  
18 our responsibility, it would still be based on a  
19 priority system based on the risk of not doing it.

20 Q Let me ask Dr. Richards, is DFO doing such  
21 research, and to be specific, the question is  
22 research on the effects of contaminants on  
23 anadromous fish?

24 DR. RICHARDS: We are doing limited research, but  
25 again, as the Deputy has been clear, it is in the  
26 context of trying to meet the overall priorities.  
27 So there may be some questions, some management  
28 questions which are set which require having  
29 knowledge about that to answer some of those  
30 questions. We are not doing a broad-scale program  
31 on contaminants or that issue, but you've already  
32 heard some evidence from some of our scientists  
33 who are doing some of the contaminant research.  
34 But we have a small group and it has to be in line  
35 with what the overall priorities and the overall  
36 questions are.

37 Q And can you quickly direct us to what overall  
38 priorities are determining what research you're  
39 doing in this area?

40 DR. RICHARDS: Well, I think there's a few things I can  
41 direct you to. First of all, the document that  
42 you discussed early this morning was a document  
43 about how to look at the problem across the  
44 country. I think, if you look at the numbers in  
45 there, you'll see already that in Pacific, in the  
46 rest of that document, we did not have as big a  
47 program in that area, traditionally, as we did in

1           some of the other regions of the country. So we  
2           were dealing with a smaller program.

3           One of the things that we have done in terms  
4           of just being more overall efficient with that  
5           program, and because that kind of program requires  
6           some very sophisticated equipment, and to do that  
7           so one of the things that we did, it was decided  
8           that we would have two major laboratories across  
9           the country who would be capable of doing some of  
10          those more sophisticated analyses. One of them is  
11          the Pacific Region, it's based at the Institute of  
12          Ocean Sciences, and the other is in Quebec Region,  
13          at the Institut Maurice-Lamontagne. So we do have  
14          some capacity to do that, but it's not a huge  
15          capacity, and we are doing some work.

16        Q       And Peter Ross, who's the research scientist, or a  
17                research scientist at the Marine Environmental  
18                Quality Section of the Institute of Ocean Sciences  
19                here, in the Pacific Region, testified that DFO's  
20                lack of a dedicated fish toxicologist was  
21                certainly hampering our efforts to understand  
22                whether contaminants present a risk to what's  
23                happening to sockeye salmon. Do you agree with  
24                that?

25        DR. RICHARDS: Well, I mean, he is certainly one of our  
26                experts and we certainly do rely on him and rely  
27                on his advice, but we do also need to put it into  
28                the broader overall context. We do count on our  
29                experts to be in contact with others in the field  
30                to bring in their knowledge, to make us aware of  
31                other factors that might come and play into that,  
32                and then we'd have to factor all that into the  
33                risks and look at the priorities. And I think,  
34                having done that, we think that probably, it's not  
35                that there couldn't be some potential there, but  
36                it's based on some of those analyses and having a  
37                discussion with Peter. I think the Management  
38                response is that it would be more efficient and  
39                more practical for us to look at some other  
40                avenues.

41        Q       So are you saying that you're not sure whether  
42                research on contaminants' effects for Fraser River  
43                sockeye is important?

44        DR. RICHARDS: Well, what I'm saying is that we have to  
45                look at the overall suite of priorities, or look  
46                at -- we have to look at -- that's only one of  
47                very, very many factors. You know, as your

1 reports have demonstrated, there are many  
2 different chemicals and many different kinds of  
3 things that could be looked at. In fact, there's  
4 a tremendous suite of different chemicals that  
5 could be examined. And at this point, we don't  
6 have any real good information about trying to  
7 narrow down that very big question to try to say,  
8 "Well, what would be really important to look at  
9 now?"

10 Q So right now, DFO doesn't have a fish toxicology  
11 program in the Pacific Region; is that right?

12 DR. RICHARDS: Not a fish toxicology per se. We have a  
13 laboratory that is capable of doing some analyses.  
14 They're used for different programs. One of the  
15 things that we're interested in is, for example,  
16 using those for tracers for ocean circulation. So  
17 there's different uses for some of that  
18 information.

19 Q But can you tell me what is going on in terms of  
20 research on toxicology involving anadromous fish  
21 in the Pacific Region? We're in a situation of  
22 new --

23 DR. RICHARDS: Yes.

24 Q You know, lots of interactions with the industrial  
25 activities in British Columbia. There's all sorts  
26 of things going on.

27 DR. RICHARDS: Mm-hmm.

28 Q Can you be more specific about what you're doing  
29 looking at fish toxicology and relating to Fraser  
30 River sockeye?

31 DR. RICHARDS: I'm not aware of any specific programs  
32 that we have that are specifically related to  
33 Fraser River sockeye. I am aware that we have  
34 asked our experts, such as Peter and some of his  
35 colleagues, to look at the issue and to provide us  
36 with some at least preliminary analysis based on  
37 their review and their knowledge that would be  
38 then fed into some of the discussions that we had  
39 at various meetings, that we're feeding into our  
40 advice to you and to the Commission, but that  
41 really is what we have done.

42 Q Okay. So you identified Dr. Ross as somebody. Is  
43 there anybody else working in this area? I mean,  
44 he says there is no dedicated fish toxicologist in  
45 the Pacific Region so who's doing this?

46 DR. RICHARDS: We have a number of other scientists who  
47 are working in that group besides Dr. Ross. I



1 mean, a lot of the things that they are working on  
2 are not necessarily so fish, but they would be  
3 looking at, you know, some other aspects of  
4 sediments or other factors, not just the fish  
5 factor because, really, we do have to look at,  
6 really, the broader ecosystem kinds of questions.  
7 So we have Dr. Robie Macdonald, who has got over  
8 35 years of experience in the Department. We have  
9 Dr. Sophia Johannessen. We have Dr. Michael  
10 Ikonomou, and we have a number of chemists who are  
11 also working in the lab. And we have Dr. Andrew  
12 Ross, who is currently the head of our laboratory  
13 of aquatic chemical expertise.

14 Q And are they looking into fish toxicology relating  
15 to the Fraser River sockeye? Dr. Ross identified  
16 this as something that was hampering his ability  
17 or DFO's ability to understand whether  
18 contaminants pose a risk to Fraser River sockeye.  
19 Would you disagree with that?

20 DR. RICHARDS: Well, I think we have looked at the --  
21 you know, we have certainly talked to Peter, we  
22 have considered what he has to say and I am not  
23 aware of any specific projects that those  
24 individuals are involved in related explicitly to  
25 Fraser sockeye.

26 Q So --

27 DR. RICHARDS: I think that was your question.

28 Q It was my question. Would you agree, from that  
29 background, that it does not appear that the  
30 effect of contaminants on Fraser River sockeye is  
31 a priority for DFO?

32 DR. RICHARDS: Well, I think that what we have tried to  
33 do is look at the weight of evidence, and we were  
34 thinking that it wasn't the first avenue that we  
35 thought was important in terms of the likelihood  
36 of finding some impacts. It was not where we  
37 would look first, and I think that that is  
38 consistent with the report from David Marmorek  
39 that was discussed earlier this week.

40 Q Okay. In the 2009 report of the Commissioner of  
41 Environment of Sustainable Development, it was  
42 noted that the lack of interdepartmental  
43 cooperation between DFO and Environment Canada on  
44 Section 36 administration and it recommended that  
45 DFO and Environment Canada should clearly  
46 establish the expectations for Environment  
47 Canada's administration of the pollution

1 prevention provisions, including the expected  
2 interactions between the two departments to  
3 support delivery of the 1986 Habitat Policy. Now,  
4 DFO and Environment Canada responded by saying the  
5 departments accept this recommendation and by the  
6 31st of March, 2011, we'll review the  
7 administration of Section 36 of the Act. So that  
8 was made in 2009, that commitment. The deadline  
9 has passed. What progress has been made since  
10 2009 in reviewing or clarifying the roles of DFO  
11 and Environment Canada when it comes to  
12 contaminants research on anadromous fish on the  
13 Pacific Region?

14 MS. DANSEREAU: There's been significant progress made  
15 on clarifying the roles and working on developing  
16 a solution. We don't have the final answer yet  
17 and whether or not it's specific to the work that  
18 you just described, I don't think I would go that  
19 far, but we are, as I've said earlier, working  
20 with Environment Canada at many levels to make  
21 sure that we achieve the best possible result. So  
22 we are in process right now and, hopefully, we'll  
23 have a better MOU soon.

24 Q Any estimate of when soon is?

25 MS. DANSEREAU: I can't give you an estimate. It's an  
26 active project that we have many people engaged  
27 in.

28 Q I'd like to now touch on another issue which  
29 relates to commitments made with respect to  
30 policies, and in particular, I would identify the  
31 Wild Salmon Policy. Minister Regan wrote a cover  
32 message which was in the Wild Salmon Policy  
33 saying, "My Department is fully committed to the  
34 Wild Salmon Policy's implementation." Has DFO  
35 been and is it currently fully committed to  
36 implementing the Wild Salmon Policy, Ms.  
37 Dansereau?

38 MS. DANSEREAU: As you know, it is an essential policy  
39 for us and it is definitely a priority policy on  
40 the West Coast. You will point to certain dates  
41 that have been defined in the document, itself,  
42 and some of those have --

43 Q I may.

44 MS. DANSEREAU: You may. And I will say that not all  
45 of those have been achieved, but it is the guiding  
46 document for the management of the Fraser sockeye  
47 and continues in that vein and we will continue to

1           try and achieve the goals as they've been defined.  
2       Q     The Departmental Management Committee is a senior  
3           committee in your Department?  
4       MS. DANSEREAU: At the time of the writing of this  
5           document, yes, that's what it was called.  
6       Q     What's it called now?  
7       MS. DANSEREAU: The Departmental Management Board.  
8       Q     Okay. So keeping those two names in mind, when  
9           was the last time that the Wild Salmon Policy was  
10          an agenda item?  
11       MS. DANSEREAU: I'm not sure this kind of policy would  
12          come to the Departmental Management Board unless  
13          it was undergoing change of some type. And you  
14          may, I think you also know we have a different  
15          governance structure now, where we also have a  
16          Deputy Minister's Policy Committee, and that  
17          policy committee would be the place where changes  
18          to this, if there were to be changes to the  
19          policy, would be made. It is a regional policy.  
20          It's a national policy implemented in the region  
21          and the work on that implementation would be done  
22          by the Regional Management Team here in the  
23          Pacific Region, and they would be the ones that  
24          would be looking at this.  
25       Q     My colleague has reminded me that your answer to  
26          my previous question, which was to put the  
27          quotation from Minister Regan to you, that it  
28          wasn't completely answered, and that is is DFO  
29          currently fully committed to implementing the Wild  
30          Salmon Policy?  
31       MS. DANSEREAU: Yes, absolutely, to the intent of the  
32          Wild Salmon Policy and whether or not we are able  
33          to meet some of the deadlines in there, I don't  
34          know because some of them were developed in the  
35          absence of science, and we are working at trying  
36          to get the answers to be able to set realistic  
37          timelines, but yes, in terms of -- I think I did  
38          answer it when I said it is our guiding document  
39          for the management of Fraser sockeye, and that  
40          would not be so if it weren't a priority.  
41       Q     All right. You have answered it now.  
42       MS. DANSEREAU: Okay.  
43       Q     You said yes to the question so thank you.  
44          Getting back to the way it has been dealt with in  
45          the Department, and just pursuing this commitment  
46          for a moment, I think I heard you say, in my  
47          question about when it had last come before the

1 national management committee, by whatever name,  
2 in DFO, I think your answer was, "Well, I'm not  
3 going to -- you didn't answer that, but you said,  
4 "This is a policy, the implementation of which is  
5 in the region." So I take it from that that the  
6 answer is no, it hasn't come before the national  
7 committee, either the Management Committee, or its  
8 successor, but that that shouldn't be surprising.

9 MS. DANSEREAU: That's right.

10 Q Okay. But it has not come before?

11 MS. DANSEREAU: My recollection is not. David may have  
12 a different recollection, but --

13 MR. BEVAN: Well, clearly, the Minister of the day, and  
14 the Deputy, et cetera, had discussions on the  
15 approval of the Wild Salmon Policy at the time it  
16 was approved. I can't recall the exact governance  
17 that was used at that time, but there were  
18 discussions at the ADM, Deputy Minister and  
19 Minister of Level 2 approved the Wild Salmon  
20 Policy at the time that it was approved.

21 MS. DANSEREAU: And that's correct, I mean, that is  
22 where it came, and it is a policy that if it's  
23 approved by the Minister, then it has to be  
24 approved by the Deputy and by the senior  
25 management structure, but whether or not it has  
26 come back since then, I don't think it has.

27 Q I think that's your recollection, as well, Mr.  
28 Bevan?

29 MR. BEVAN: That's correct.

30 Q Let me just pursue that. It seems to me it's a  
31 national policy, even though it's being  
32 implemented in the region. Does that mean there's  
33 no reporting function through to those committees  
34 by the Pacific Region on how it's coming and, as  
35 you point out, there are some other deadlines that  
36 have been missed here?

37 MS. DANSEREAU: It is a living document. It's a  
38 document that guides how the Pacific Region  
39 provides advice to us and to the Minister for the  
40 Minister to make decisions on a yearly basis for  
41 the management of the fishery. So the Policy,  
42 itself, doesn't come back under regular review,  
43 but the application of the Policy is living within  
44 all of our managements plans.

45 Q One of the issues that we've heard, and perhaps  
46 the principal one, certainly, a principal issue  
47 that's come with respect to the Wild Salmon Policy

1 is the fact that the implementation doesn't appear  
2 to be happening, certainly not on the timeline  
3 that it was designed for, and question whether at  
4 all. And it's been suggested by a number of the  
5 people who spoke on this subject over the course  
6 of our hearings that things might happen more  
7 quickly if there were a champion in the Department  
8 pursuing this. And it's a national policy, why  
9 isn't there a national champion keeping on top of  
10 this?

11 MS. DANSEREAU: The Regional Director General of the  
12 Pacific Region is a very senior person in the  
13 Department. They sit on the Management Board and  
14 they sit in all of the important national  
15 committees. They also report directly to the  
16 Deputy Minister and that means that they are as  
17 senior as you can get, apart from the Deputy or  
18 the Associate and, therefore, they are significant  
19 champions in their own right. There's a senior  
20 ADM responsible, the position that David used to  
21 hold, senior ADM on the Fisheries side, or now  
22 ecosystems management side, ecosystem-based  
23 management side, and that person would also be  
24 very aware and very supportive, and very much a  
25 champion of the Wild Salmon Policy. So between  
26 those two, you have some very serious attention  
27 paid to this. Some of the deadlines are not -- I  
28 don't want to speak on something that I might not  
29 be an expert on, but my understanding of some of  
30 the deadlines and why they are not met, as  
31 conservation units or some research, is that  
32 science builds on science, knowledge builds on  
33 knowledge and we simply don't have sufficient  
34 knowledge at this point to have achieved some of  
35 the deadlines that we thought we could, but that  
36 doesn't mean that the work is not ongoing.

37 Q So as I understand your answer, Ms. Dansereau,  
38 it's that the Regional Director General is part of  
39 the national scene, a very senior person in the  
40 Department and that's the person to whom you look  
41 for the implementation of this Policy?

42 MS. DANSEREAU: Absolutely.

43 Q And that's where you look to find a champion?

44 MS. DANSEREAU: Yes.

45 Q And that, Ms. Farlinger, would be you. Can you  
46 explain why the issues of delays in implementation  
47 and the question of commitment and these issues

1           have not been brought forward by the Pacific  
2           Region to the national committees?

3       MS. FARLINGER: Well, first of all, I would say that in  
4       the work planning that we do between the region  
5       and national headquarters, that the implementation  
6       of the Wild Salmon Policy is very much within the  
7       framework of the policy framework for the  
8       Department. And it is, for Pacific salmon,  
9       specifically the work that we do for that set of  
10      species under the broad national implementation of  
11      the national what we call the sustainable  
12      fisheries framework. So it is certainly discussed  
13      in those terms, in terms of the budget that's  
14      allocated to Pacific Region to do its work  
15      generally on fisheries management, budget for  
16      science, budget for enforcement, budget for all  
17      the various activities that relate to the  
18      management and assessment of Pacific salmon.

19           It certainly shows up in terms of the  
20      proportion of our funding that is dedicated to  
21      Pacific salmon and has shown up in Science  
22      priorities in our Science work plan over the last  
23      five or six years, and in terms of management  
24      decisions, for example, that we have put to the  
25      Minister in the Integrated Fishery Management Plan  
26      for each year. It's also part of the Habitat  
27      Program.

28           Now, the question of whether it has gone as  
29      fast as originally envisioned is a different  
30      question than whether it's been implemented  
31      throughout our programs. And I think I have said  
32      here before and continue to say that it is  
33      implemented throughout our programs. And some of  
34      those deadlines continue to be a challenge for us.

35           One of the concerns, I think, is that the  
36      implementation, as it was originally envisioned,  
37      there's one thing that continually comes to my  
38      mind, that we would have limit reference points  
39      for all the salmon stocks in B.C. by two years.  
40      In fact, we're simply not realistic and that's  
41      been part of the learning of our implementation of  
42      the Policy. So I would say that the intent of it  
43      and the foundation for the decisions that get made  
44      in terms of the integrated fishing plans are very  
45      much a part of the work we do in salmon, which  
46      amounts to in the order of 60 million or more  
47      dollars a year in terms of what we put into that.

1 But certainly, there are elements of the strategy  
2 that is set out that, you know, have not been done  
3 on deadlines and I think has something to do with  
4 the fact that probably, all that information for  
5 all those conservation units, by the way, which  
6 numbers change from time to time, you know,  
7 probably will never be done. But it is our  
8 intention to continue to gather that information  
9 and to use that information in the management  
10 decisions that are envisioned by the Wild Salmon  
11 Policy.

12 Q Ms. Farlinger, as you've pointed out, we've been  
13 through a lot of this before, and the purpose of  
14 this panel, really, is to put some of these  
15 issues, the overlying issues related to the Wild  
16 Salmon Policy and the gap between the policy and  
17 implementation to those from Ottawa. I want to  
18 try and keep this to a broad-level discussion, but  
19 it may not be possible. And things that have  
20 happened since you were last here.

21 Let me try this suggestion. I hear the  
22 explanations as to what's happening about the Wild  
23 Salmon Policy to be, "Well, it affects how we do  
24 all of our business, whether it's in, you know,  
25 catch monitoring, or whether it's in habitat  
26 protection," or all of these decisions are  
27 informed by things we're learning and the point of  
28 view from the Wild Salmon Policy. And you know,  
29 people have used very high-minded words and  
30 important principles to defend it. They describe  
31 it as a very forward-thinking transformative  
32 policy. And in a context that's slightly  
33 different, there's some words of a witness that  
34 I'd like to put to you and just see whether or not  
35 you would agree that that's what's happened here.  
36 I'm, frankly, more interested in pinning down what  
37 the actions are and finding out whether or not  
38 it's really been implemented or whether or not  
39 it's just in the background. And the comments  
40 here are from Trevor Swerdfager, who was speaking  
41 in the context of aquaculture, and he said:

42  
43 I continue to experience great difficulty  
44 with the concept of ecosystem-based approach  
45 to management ... I think that the idea has  
46 tremendous theoretical allure, and I think to  
47 build an argument against it is probably

1                   difficult. I think that the idea of  
2                   integrating multiple variables, multiple  
3                   aspects of the ecosystem, understanding it on  
4                   a broad-based multi-disciplinary scientific  
5                   perspective makes an awful lot of sense.  
6

7                   Translating that into specific management  
8                   decisions and actions is much more difficult  
9                   ...

10                   ... making the transition between the concept  
11                   of ecosystem-based approaches into direct  
12                   management action is a challenge.  
13  
14

15                   And I hear that conceptually, these are giving  
16                   rise to the way, you know, a new appreciation to  
17                   the way Fisheries is looked at, but the question  
18                   is how, specifically, is the Wild Salmon Policy  
19                   changing decisions in terms of Fisheries  
20                   management? I mean setting escapement levels,  
21                   choosing gear types, openings and closings, those  
22                   sorts of specific things, how is it really working  
23                   on the ground?

24                   MS. FARLINGER: In terms of harvest management, there's  
25                   certainly decisions that have been made every year  
26                   since the Wild Salmon Policy was announced. And I  
27                   did mention this before, that part of the Wild  
28                   Salmon Policy objective was to write down what  
29                   was, in some measure, already beginning to happen,  
30                   and that was the consciousness of stocks of  
31                   concern and weak stock management in mixed stock  
32                   fisheries.

33                   We have made decisions about harvest rates  
34                   each and every year on fisheries that specifically  
35                   have to do with the protection of what we would  
36                   now call weak stock as we move into the  
37                   conservation unit definition and the development  
38                   of the limit.

39                   Reference points, that information is  
40                   directly taken into account in a very detailed way  
41                   in the management of, for example, in this case,  
42                   Fraser sockeye and other sockeye stocks.

43                   The management plan includes consideration of  
44                   the Early Stuart sockeye. It reduces sockeye  
45                   fisheries in order to protect that. It reduces  
46                   the harvest rate on other abundant stocks in order  
47                   to protect, for example, Cultus sockeye, which I



1 know you've heard many times.

2 In the Skeena River, we have reduced a  
3 harvest rate down to what fundamentally varied  
4 between 40 and 60 percent to now between 20 and 30  
5 percent.

6 The Science activities towards defining the  
7 conservation units and developing those limit  
8 reference points continue and we are expecting for  
9 the sockeye stocks to have those by the fall of  
10 this year, which is along the schedule that we had  
11 talked about.

12 In the case of habitat, the implementation of  
13 a risk-based approach and identifying the pathways  
14 of effects is one of the ways that has taken us  
15 towards the Wild Salmon Policy. We have developed  
16 a framework for habitat reviews. We have done  
17 reviews of, admittedly, a limited number of  
18 conservation units with respect to habitat.

19 I think, in all these ways, in terms of how  
20 we have allocated Science priorities, in terms of  
21 management decisions and advice we provide to the  
22 Minister, we point to the Wild Salmon Policy, we  
23 indicate how this information is consistent with  
24 the Wild Salmon Policy and so it's resulted in  
25 decisions on harvest, it's resulted in collecting  
26 and organizing the information on fish habitat  
27 with respect to priority habitat for sockeye, and  
28 it's set priorities for Science. So I think that  
29 in many aspects, it's been done.

30 I can speak about ecosystem in one way. For  
31 example, the environmental information that is  
32 incorporated into the day-by-day management of the  
33 Fraser sockeye, and I think you heard Barry  
34 Rosenberger and others describe the management  
35 adjustments, these are made based on water  
36 temperature and in-river conditions that are, in  
37 fact, broader ecosystem considerations about the  
38 salmon migrating up the river. So I think there  
39 are a broad suite of ways in which the Policy is  
40 being implemented. If you look at the strategies  
41 set out on page 17 of the Policy, are every one of  
42 those done? No, they are not, but the effective  
43 regulation and the decisions that are made, and  
44 the Science priorities and the work we have done  
45 in habitat and integrating ecosystem into  
46 decisions all take us in the direction of the  
47 intent of the Policy. So that's really the only

1 way I could describe how it's being implemented.  
2 Q Thank you, Ms. Farlinger. If we can just sort of  
3 bring our record up to date, and I have a couple  
4 of questions about this. And perhaps it's best  
5 put to Dr. Richard.

6 MR. WALLACE: Mr. Lunn, could you pull up document 30  
7 from the Commission's list?

8 Q Wild Salmon Policy Action Step 1.3 requires the  
9 monitoring and assessing of the status of  
10 conservation units, including a statistically-  
11 based and cost effective monitoring plan and  
12 monitoring program established by the Department  
13 and partners and funded annually. So in terms of  
14 assessing CUs, we have heard from Dr. Sue Grant  
15 and a previous version of her paper on this  
16 subject is in evidence. I wonder if I could ask  
17 you, Dr. Richards, to just identify the document  
18 on the screen, which is entitled, "Evaluation of  
19 Uncertainty in Fraser Sockeye Salmon ... Wild  
20 Salmon Policy Status using Abundance and Trends in  
21 Abundance Metrics."

22 MR. WALLACE: And if you scroll to the bottom of that  
23 page, Mr. Lunn, you will see that that is working  
24 version, July 5th, 2011. Can you identify that as  
25 a new iteration of this?

26 DR. RICHARDS: Mr. Commissioner, there have been  
27 several iterations of this document, of which this  
28 is one. It is not the current final iteration.

29 MR. WALLACE:

30 Q Yeah, but it follows from the one that's already  
31 in evidence?

32 DR. RICHARDS: It follows from the --

33 Q But there may have been other individual ones?

34 DR. RICHARDS: -- from the original one that was  
35 submitted and that was reviewed, you know,  
36 previously.

37 Q And which is Exhibit 184 in this proceeding.

38 MR. WALLACE: Thank you. Could that be marked, please,  
39 Mr. Registrar, as the July 5th draft?

40 THE REGISTRAR: It will be marked as 1914.

41 MR. WALLACE: Thank you.

42  
43 EXHIBIT 1914: Evaluation of Uncertainty in  
44 Fraser Sockeye ... Wild Salmon Policy Status  
45 using Abundance and Trends in Abundance  
46 Metrics, July 5, 2011 draft  
47

1 MR. WALLACE: And then if I could ask you, Mr. Lunn,  
2 please, to pull up Commission's document 31, which  
3 bears the same title and is dated August 25th,  
4 2011?

5 Q Is that the most recent version?

6 DR. RICHARDS: This is the most recent, current  
7 version.

8 Q Thank you.

9 DR. RICHARDS: This is not the final version of the  
10 document, but it's close to final.

11 MR. WALLACE: Could this be marked as the next exhibit,  
12 please?

13 THE REGISTRAR: 1915.

14 MR. WALLACE: Thank you.

15

16 EXHIBIT 1915: Evaluation of Uncertainty in  
17 Fraser Sockeye ... Wild Salmon Policy Status  
18 using Abundance and Trends in Abundance  
19 Metrics, August 25, 2011 draft  
20

21 MR. WALLACE:

22 Q But this is the most recent version?

23 DR. RICHARDS: That's correct.

24 Q It's not yet finished?

25 DR. RICHARDS: That's correct.

26 Q And what is the timetable for completing this  
27 work?

28 DR. RICHARDS: I expect that it will be completed  
29 reasonably quickly at this point, certainly this  
30 fall. The process now is that this is a final  
31 draft that was prepared by the authors. It needs  
32 to be approved by the chair of the subcommittee.  
33 There needs to be a review to ensure that the  
34 authors have addressed the issues that were raised  
35 by the reviewers, or the issues that the  
36 subcommittee requested that they identify and  
37 change or update in their document. So this needs  
38 to be reviewed to ensure that it meets the  
39 requirements and then it will be -- and it may  
40 involve, in order to do that, some very minor -- I  
41 would expect at this point no more than sort of  
42 minor changes.

43 MR. WALLACE: Thank you, Dr. Richards. Mr. Lunn, could  
44 you pull up, beside or below this document so we  
45 can see the title of both, Exhibit 184, as well?

46 Q And we have the two documents, the one on the  
47 right being the current version of the draft of

1 Exhibit 184, which is on the left, and we'll see  
2 that the title has changed to go from "Fraser  
3 Sockeye ... Wild Salmon Policy Evaluation of Stock  
4 Status: State and Rate," to "Evaluation of  
5 Uncertainty in Fraser Sockeye ... Wild Salmon  
6 Policy Status using Abundance and Trends in  
7 Abundance Metrics." I've purposely not tried to  
8 pronounce the Latin that's in the title. Can you  
9 explain, Dr. Richards, please, why the difference  
10 in wording?  
11 DR. RICHARDS: The choice of title is really a choice  
12 of the authors and, in this case, it's really the  
13 authors have chosen to change the title of their  
14 paper, but the rationale for that would be to make  
15 the title actually more reflective of the content  
16 of the paper. It's not -- the content of the  
17 paper has not really changed substantively. There  
18 are some differences in the paper in terms of the  
19 way the figures were portrayed, but fundamentally,  
20 the same results are being given in both versions  
21 of the paper.  
22 Q Okay.  
23 DR. RICHARDS: So this was really just a change in  
24 title, it was not a change in what the paper is  
25 really about, or the purpose of the paper.  
26 Q So the original title was wrong?  
27 DR. RICHARDS: Well, it's not --  
28 Q It's not an evaluation of stock status, it's  
29 rather an evaluation of uncertainty?  
30 DR. RICHARDS: Well, whether a title is wrong or right,  
31 I don't think is not -- this is science, it's not  
32 a right or wrong kind of question, it's really  
33 that's what the authors had chosen initially to  
34 call it and decided that something else was a  
35 better descriptor of the content.  
36 Q Would you agree with me, and I'm not sure to whom  
37 I should put this question, but perhaps you, Ms.  
38 Dansereau, that action step 1.3 calls for an  
39 evaluation of the status of CUs? If you go to --  
40 MR. WALLACE: Is there room for a third document up  
41 there, Mr. Lunn?  
42 MS. DANSEREAU: I'm familiar with the document and,  
43 actually, I'm sure I can look at it and say yes  
44 without looking.  
45 MR. WALLACE:  
46 Q So would it be fair to say that the title of the  
47 first version of this reflected action step 1.3,

1 but according to the evidence we just heard, not  
2 the content and now neither the content nor the  
3 title reflect completion of action step 1.3?

4 MS. DANSEREAU: I can't speak to this paper, nor can I  
5 speak to scientist's choice of a title. That's  
6 entirely their purview. I would never question  
7 their choices in any way at all so I can't speak  
8 to that.

9 Q Dr. Richards?

10 DR. RICHARDS: Yes, thank you. I think, in my view,  
11 that this really does address action step 1.3 in  
12 terms of the status. This paper does portray, it  
13 does provide the benchmarks. It does provide a  
14 lot of information on the status of Fraser River  
15 sockeye salmon by CU. It isn't definitive, yes,  
16 this stock is in the red zone, or the amber zone,  
17 or the green zone, but it does provide a lot of  
18 information that I think our managers can use in  
19 terms of how they choose to go forward and manage  
20 Fraser sockeye based on that information. It  
21 gives them the full range of uncertainty around  
22 those different benchmarks. It's done those  
23 benchmarks with different models so they can look  
24 at the values or the interpretation, how the  
25 interpretation may be impacted by different  
26 assumptions that would be in different other  
27 statistical models used for analysis. So it does  
28 not give one concrete answer, but it does give the  
29 full suite of information that I think the  
30 managers will want and will be useful to them in  
31 doing that. So yes, I think it does address that.

32 Q Would you agree, Ms. Farlinger? Did you wish to  
33 say anything?

34 MS. FARLINGER: I think this is one of the challenges,  
35 that there is a considerable separation between  
36 management and the questions that management asks  
37 and the advice that science can provide. And I  
38 think what this paper does is tell us what  
39 information the scientists can provide.

40 We have, for about 10 or 15 years, in the  
41 process of review, and Science has specifically  
42 addressed this, asked for the uncertainty around  
43 advise so that when we're making decisions and  
44 understanding the risks of decisions, we know  
45 about the uncertainty. And I suspect that you've  
46 learned a lot of about this over the last few  
47 months. And so when we get this kind of advice,

1 we specifically ask for that, for how sure are  
2 you, how good is this information, what has been  
3 taken into account, what hasn't been taken into  
4 account? And that allows us to develop the advice  
5 for decisions about the fishery with an  
6 understanding of the uncertainty that we're  
7 dealing with.

8 Q Dr. Richards, am I correct, though, that this  
9 document does not assess the status of CUs, Fraser  
10 River sockeye CU.

11 DR. RICHARDS: Okay. I think that I would have to say  
12 that depends on exactly what you mean by that  
13 question because if you look at some of those  
14 tables that are in the figures that are in the  
15 document, you can see that it does provide some  
16 advice, and with some uncertainty about what the  
17 status is, which zone each of those CUs is in.  
18 All that information is provided in exhaustive  
19 detail in that paper.

20 Q So you're satisfied, are you, that when this  
21 document is completed, it will allow the  
22 determination of upper and lower benchmarks and  
23 assessment of the Fraser River sockeye CUs?

24 DR. RICHARDS: The paper provides a series of  
25 benchmarks for looking at upper and lower  
26 benchmarks for stock status. So there is  
27 information on that available.

28 Q No, but will you be able to determine them for  
29 each -- does this determine them for each Fraser  
30 River sockeye CU?

31 DR. RICHARDS: There is information in this paper, at  
32 least there were a few CUs for which there was not  
33 really data available, but for the majority of the  
34 CUs, there is information that will identify upper  
35 and lower benchmarks, that gives the upper and  
36 lower benchmarks and classifies, you know, is it  
37 red, amber, green, and that information is in this  
38 paper. If your question is is there more that we  
39 can do on this, then I'd say yes. And  
40 unfortunately, this is the way that science works,  
41 there's always more that we can do on any specific  
42 question. So yes, we can continue to do more work  
43 on this, we can continue to look at different  
44 kinds of models to do these kinds of analyses, so  
45 we can go on and go on, but in terms of the  
46 immediate question, we have provided that  
47 information.

1 Q Thank you. Policy action step 3.1 of the Wild  
2 Salmon Policy, which is on page 23 of Exhibit 8  
3 requires the Department to identify key  
4 biological, physical and chemical indicators of  
5 the current and potential state of lake and stream  
6 ecosystems. And it says that within two years, an  
7 ecosystem monitoring an assessment will be  
8 developed and integrated with ongoing assessments  
9 and reporting of the status of wild salmon. More  
10 than two years, obviously, has passed since 2005.  
11 The evidence we've heard is that there hasn't been  
12 any progress on this action step. Can you tell  
13 us, Dr. Richards, the current status of 3.1, or  
14 perhaps it's Ms. Farlinger?

15 MS. FARLINGER: Go ahead.

16 DR. RICHARDS: Okay. Well, I mean, I think that this  
17 really has been difficult, into looking at this,  
18 but I can say that now there is some work that is  
19 ongoing nationally. There are one or two national  
20 review meetings through CSAS, the Canadian Science  
21 Advisory Secretariat that is sponsoring it this  
22 year, to look at the issue of indicators,  
23 particularly for freshwater systems. I think we  
24 are interested in trying to do work which is, you  
25 know, consistent, and so we'd have a consistent  
26 national approach. Coming up with appropriate  
27 indicators is challenging. There has been a huge  
28 body of science around that particular question  
29 over the last few years and, you know, it seems  
30 like it should be quite simple, but in fact, this  
31 kind of task has engendered a tremendous amount of  
32 scientific debate around the choice of indicators.  
33 And so there is work that is ongoing and we will  
34 be having some national peer review meetings yet,  
35 before spring.

36 Q I think it's fair to say that following the report  
37 of the Commissioner of Environment and Sustainable  
38 Development in 2009, there was a further  
39 commitment to moving towards ecosystem approach.  
40 It's a more general commitment than the Wild  
41 Salmon Policy. So what is the timeframe within  
42 which you expect to meet this Wild Salmon Policy  
43 commitment?

44 DR. RICHARDS: Well, I don't think I want to give a  
45 specific timeframe because, you know, these things  
46 really are works in progress and ongoing and as  
47 we've heard earlier, if Science gives you a

1           timeframe, they're going to probably be wrong. So  
2           I think I'd like to hedge my bets on this one,  
3           thank you.

4           Q    We've heard a lot about what it will cost to  
5           implement the Wild Salmon Policy and the fact that  
6           the policy, itself, speaks of being implemented  
7           without additional funding. Various numbers we've  
8           heard. We heard about funding initially of a  
9           million dollars a year, reducing after that. Mark  
10          Saunders made a similar observation in evidence.  
11          We heard from a couple of witnesses speaking from  
12          outside the Department who were very familiar with  
13          the Policy, Jeffery Young and Brian Riddell, that  
14          \$3 million a year, or two-and-a-half million  
15          dollars a year, in Brian Riddell's case, for a  
16          short period of time, would be enough to get this  
17          going. Has there been any assessment within DFO  
18          as to what it will cost to implement the Wild  
19          Salmon Policy?

20         MS. DANSEREAU: Sue could answer on the more specific,  
21         but I'm having trouble with the word, "implement,"  
22         in the context that it's being used here. The  
23         Wild Salmon Policy, as I said earlier, guides  
24         decision making to the most senior level inside  
25         the Department and even though all of the subparts  
26         of the Policy haven't reached their full fruition,  
27         I guess, that doesn't mean it's not being  
28         implemented. We don't have everything done as we  
29         said we would in here, but the guiding principles  
30         are the guiding principles by which we make  
31         decisions. The work that is guiding our science  
32         is work that you've seen the scientists are  
33         working on, trying to fill in the blanks in terms  
34         of knowledge. So as I also said earlier, science  
35         builds on science. When we fill in some knowledge  
36         gaps, sometimes we develop new knowledge gaps,  
37         sometimes we close them and it's hard to predict  
38         precisely what it would cost to fill all the  
39         knowledge gaps and how long it will take to fill  
40         all the knowledge gaps. So I worry when I think  
41         that there's an expected absolute end point to the  
42         document as though it's sitting on a shelf and not  
43         being used. It is being implemented.

44         Q    Let me stop you, if I may, and just see if I can  
45         clarify this, Ms. Dansereau.

46         MS. DANSEREAU: Yeah.

47         Q    I certainly wasn't implying that science is finite



1 and comes to a terminal conclusion and that's it.  
2 Clearly, that's not the case. But the Wild Salmon  
3 Policy, as I understand it, has two parts, to  
4 basic parts to it. One is getting the information  
5 and getting into putting into place a system for  
6 ongoing assessment and monitoring. And the status  
7 of the CUs is one thing we talked about. I hadn't  
8 actually had any questions, but I'll put one in  
9 now about the state of assessment and monitoring  
10 of habitat, which is another whole piece of the  
11 strategy and the policy. And the evidence is  
12 pretty clear that that has not been done, except  
13 with respect to Fraser River sockeye. As I say, I  
14 was trying not to go over old ground here.

15 So I think it's one thing to say what we  
16 learn from the Wild Salmon Policy informs what we  
17 do in everything, but I suggest to you that it's a  
18 very different thing to say that general thing.  
19 That's the sort of comment that I think Mr.  
20 Swerdfager was speaking of, the difficulty. But  
21 here there's some, I suggest, quite specific kinds  
22 of information that need to be brought up to date,  
23 and I think the evidence is we're almost there on  
24 some of it, not on others, but it's not there yet.

25 And then there is the whole question of how  
26 you make use of that information to plan for this  
27 sockeye salmon fishery and the application here.  
28 So saying that it informs in one thing, but  
29 actually -- so to me, implementing the Wild Salmon  
30 Policy means getting to the state where you're  
31 actually using it as a planning device, with all  
32 of the information you've promised to put in  
33 place, and then applying the planning techniques.  
34 And the planning techniques are also set out  
35 there. They include a collaborative approach,  
36 they include transparent decision making, and a  
37 number of very clear pieces. So simply saying it  
38 informs us generally, to me, I suggest, is not  
39 implementation. So that's what I took the Wild  
40 Salmon Policy to be setting out as being the  
41 requirement, and please correct me if you have a  
42 different impression.

43 MS. DANSEREAU: Thank you, and I don't -- will not  
44 correct you, we all have our own interpretations  
45 of these things, but what I meant was if I look at  
46 the principles, which, to me, a policy should be  
47 much more about principles than it should be about

1 specific targets and timelines for implementation  
2 because if I was writing this today, I would  
3 separate some of the parts of this out and call  
4 those one policies, and I would call some of the  
5 other pieces that are more specific, with targets  
6 and timelines, I would call those a program, and  
7 they would be treated quite differently. But the  
8 guiding principles, conservation, honouring  
9 obligations to First Nations, open process,  
10 sustainable use, those are principles that guide  
11 our decision making today, constrained by -- some  
12 of our transparency requirements are constrained  
13 by ministerial discretion and the right of the  
14 Minister to make final decisions, but the --

15 Q In a very consultative, open and transparent way?

16 MS. DANSEREAU: Yes, and we are extremely consultative,  
17 and that, to some extent, we were before this  
18 document was written, but we became even more so  
19 after this document was written. So the essence  
20 of the document is what I think is being  
21 implemented, and that's how I mean the decisions  
22 are being informed because they are being informed  
23 against these guiding principles and by some of  
24 the actions.

25 Now, there are pockets of insufficient  
26 knowledge, I completely grant you that, but those  
27 knowledge gaps, we are working to fill. And I  
28 can't give you a dollar amount on what it will  
29 take to get to the end point of all of those  
30 knowledge gaps because as I said, sometimes  
31 getting one answer creates more questions.

32 Q Thank you. Strategy 6 of the Wild Salmon Policy  
33 is a five-year independent review. That was last  
34 year. We now have -- a contractor has been  
35 selected and contracted to do the review.

36 MR. WALLACE: Mr. Lunn, could you pull up Commission  
37 document 32, please?

38 Q Now, may I ask, Ms. Dansereau or Mr. Bevan, is  
39 this work plan intended to reflect the  
40 Department's fulfilling of its commitment to  
41 action step 6.2, an independent review of the  
42 success of WSP in achieving its broad goals and  
43 objectives? Oh, thank you.

44 MS. FARLINGER: It certainly is intended to be a  
45 significant step in meeting step number 6, yeah.

46 Q And this is the work plan developed for an  
47 independent consultant, Gardner Pinfold, correct?

1 MS. FARLINGER: That was the consultant who was  
2 selected, yes.

3 Q Yeah.

4 MR. WALLACE: May this be marked, please, as the next  
5 exhibit?

6 THE REGISTRAR: 1916.

7

8 EXHIBIT 1916: Wild Salmon Policy Final Work  
9 Plan, July 15, 2011

10

11 MR. WALLACE:

12 Q Now, am I correct that the evaluation framework  
13 for this work plan was developed by DFO?

14 MS. FARLINGER: Yes.

15 Q Is that consistent with an independent review, or  
16 should the reviewer also have had the opportunity  
17 to establish the evaluation and framework?

18 MS. FARLINGER: We're certainly in a position to have  
19 to inform any person who would do this independent  
20 review what it is we would expect out of it, what  
21 the components of it were and, therefore, set out  
22 the kinds of questions that we would hope to have  
23 answered in the review. And yes, as I've talked  
24 about previously here, we sought advice from the  
25 Pacific Fisheries Resource Conservation Council,  
26 we sought advice from our Internal Audit Section,  
27 and ultimately, this, the evaluation strategy was  
28 based on all of that and our internal review of  
29 what needed to be asked in the Wild Salmon Policy,  
30 or about the policy.

31 Q Do you expect this review to tell you whether or  
32 not you'll be able to implement it and current  
33 budgets?

34 MS. FARLINGER: As I recall the evaluation framework, I  
35 don't believe that there were questions about the  
36 budget in the evaluation framework.

37 Q I'm just trying to think. The Wild Salmon Policy,  
38 itself, describes the review as being directed to  
39 the implementation of the policy and suggests that  
40 the implementation will be revised to address  
41 shortcomings that may be reducing its  
42 effectiveness. Is the review limited to that  
43 issue of implementation, or is it looking at it  
44 more broadly.

45 MS. FARLINGER: I would say, in general, that the  
46 evaluation framework talks about the objectives  
47 that the policy set out and the implementation is

1 as described in that section that you just read,  
2 yeah. So I wouldn't say it asks questions such as  
3 is this the right policy, it asks questions about  
4 implementation of the policy.

5 Q When will that -- we asked for drafts of that and  
6 for the final, which is supposed to be due next  
7 week; is that correct?

8 MS. FARLINGER: My understanding is in early October,  
9 we're supposed to see the report, yes.

10 Q Early October. And it will be available publicly  
11 and to the Commission --

12 MS. FARLINGER: Yes.

13 Q -- in early October?

14 MS. FARLINGER: Well, it will be available to the  
15 Commission. We probably wouldn't publish it  
16 publicly until we've gone through it with the  
17 reviewer and finalized the report.

18 Q Will you make it available to the Commission and  
19 participants?

20 MS. FARLINGER: Yes. Yes.

21 Q When you have it?

22 MS. FARLINGER: Yes.

23 Q So in early October?

24 MS. FARLINGER: That's my --

25 Q Our hearings will be over by then so I'm not --

26 MS. FARLINGER: That's my understanding of when we  
27 expect to get the report, yes.

28 Q Thank you.

29 MR. WALLACE: Mr. Commissioner, I'm about to move on to  
30 another point. I'm conscious that we're here till  
31 4:30 this afternoon, but perhaps we could take a  
32 15-minute break at this point?

33 THE COMMISSIONER: Yes, that's fine. Thank you.

34 THE REGISTRAR: The hearing will now recess for 15  
35 minutes.

36

37 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

38 (PROCEEDINGS RECONVENED)

39

40 THE REGISTRAR: The hearing is now resumed.

41 MR. WALLACE: Thank you, Mr. Commissioner.

42

43 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:

44

45 Q I wonder if I could just go to a different topic.

46 DFO has spent a lot of money over the years with  
47 respect to the reallocation of fisheries as to the

1 PICFI process, of course, demonstration fisheries.  
2 My question is has DFO determined that it will  
3 move fisheries in-river and, if so, how much of  
4 the fishery will be moved, for whom, and at what  
5 cost.

6 MS. DANSEREAU: I think Sue will answer this more  
7 fully. The decisions at this point are not  
8 whether or not that's where we are going, but  
9 whether or not it's appropriate under certain  
10 circumstances to -- to go there, and --

11 Q Excuse me if I may. I'm not quite sure I  
12 understand the difference between the  
13 determination of the appropriateness of doing  
14 something and whether or not you're going to do  
15 it.

16 MS. DANSEREAU: I'll let Sue answer it.

17 Q Thanks.

18 MS. FARLINGER: Part of the reallocation to First  
19 Nations to support their increased involvement in  
20 the fishery, including the salmon fishery, has  
21 included demonstration fisheries in the in-river,  
22 in the Fraser River. And demonstration fisheries  
23 are intended to be just that, to test how  
24 successful those fisheries could be. First of  
25 all, meeting conservation objectives, so avoiding  
26 mixed stock fisheries, providing additional  
27 economic access to First Nations, and thirdly, I  
28 guess, whether they can be viable or profitable as  
29 an economic exercise. And so the PICFI projects  
30 as set out were intended to test those objectives.

31 So what we would eventually do is take that  
32 information and provide it to decision-makers in  
33 terms of whether this would be permanently  
34 implemented, whether this would be continued for  
35 some time, or whether it would not go any further  
36 at the moment. So that decision, as the Deputy  
37 said, has not been made. But the exercise at this  
38 point is really to test out the feasibility of  
39 those fisheries on both a conservation and an  
40 economic scale.

41 Q Thank you. PICFI has been around for a while now  
42 and is about to come to an end, the funding, it  
43 seems. Can you describe the nature of the  
44 research that's been done and what you've learned  
45 and what -- how you're going about assessing what  
46 you're learning, or have learned from this process  
47 on the two points you make, the conservation

1 aspect and on the economic viability.

2 MS. FARLINGER: Well, I should say on the conservation  
3 aspect, we have supported these demonstration  
4 fisheries to the extent possible, where we can get  
5 a greater separation of stocks, so where we're  
6 moving away from the mixed stock fishery problem.  
7 So that is inherent in the test. And so secondly,  
8 these take place in a couple of places, one we  
9 have -- a couple that we have upriver in the  
10 Fraser River where the stocks are fairly well-  
11 defined and they're fundamentally in their stream.  
12 And we have a couple on the Skeena River where in  
13 fact there's still a mixed stock problem, one  
14 might say, in Babine Lake, but it's infinitely  
15 more reduced than it is in the fishery down at the  
16 mouth of the river. So I would say in the matter  
17 of selectivity or for conservation reasons, we  
18 think those are the basis of the selection of the  
19 projects.

20 The focus really has been around what methods  
21 can be used to catch the fish, are they effective,  
22 can enough fish be caught to have a reasonable  
23 fishery, essentially can we assess how many fish  
24 are caught, do we have the right monitoring in  
25 place, and those kinds of things.

26 So, yes, we are every year monitoring those  
27 fisheries against those aspects. I think it's  
28 fair to say the two in-river fisheries that have  
29 occurred as demonstrations in the Fraser River are  
30 still very much in the experimental phase.

31 Q These are the two -- where are they, they're at  
32 Kamloops Lake and...

33 MS. FARLINGER: There's one in, yeah, Shuswap and one  
34 farther up the river, that it's just -- sorry, I'm  
35 having a moment.

36 Q How are the -- and those are the only two, and  
37 there's some evidence, I think, before the  
38 Commission that suggests that they're small and  
39 very marginally effective, and that's the extent  
40 of the testing of the economic viability of these  
41 fisheries is it, is those two?

42 MS. FARLINGER: In the upper Fraser River those two  
43 fisheries have taken place. There also have been  
44 some work done with the Chehalis group off the  
45 main stem of the Fraser River, and there has been  
46 a combination of what we used to call Excess to  
47 Salmon Spawning Requirements fishery and an

1 Economic Development fishery with the Chehalis  
2 Band, as well, in the lower river.

3 Q And can you describe how you're evaluating the  
4 success of those projects?

5 MS. FARLINGER: At this point we're looking at whether  
6 the fishery itself can physically be prosecuted,  
7 how successful those fisheries have been. We've  
8 provided allocations through the retirement of  
9 commercial salmon licences to those fisheries, and  
10 in at least one year, last year I believe, 2010,  
11 we reallocated fish from that fishery back down to  
12 the regular commercial fishery because the fishery  
13 was unable to take the amount of fish that was  
14 allocated to it.

15 So what we're really evaluating now is can  
16 these fish physically be caught in a way that  
17 avoids the capture of other stocks, and can they  
18 be done in a way that allows for ultimately for  
19 them to be profitable.

20 Q Now, is that a formal study with, you know, with a  
21 timeline and a focus and a process and so on, or  
22 is it just -- or are you just gathering  
23 information ad hoc? I want to understand how this  
24 is being conducted, and what -- how useful the  
25 information will be when you're done.

26 MS. FARLINGER: To some extent it's very practical and  
27 ad hoc, but on the other hand, we at the end of  
28 each year assess how much fish has been caught  
29 against the allocation, what the marketing, if  
30 any, has been done with respect to the fish, and  
31 whether that was profitable for the fishermen,  
32 whether they can pay their fishermen out of the  
33 catch, whether they can -- whether they can market  
34 the fish. So we ask ourselves that set of  
35 questions. It's only as structured as that.

36 Q And so far you don't have the answer.

37 MS. FARLINGER: Well, we have some answers, but in  
38 those two particular examples I mentioned, I think  
39 the fishery is still very much developing in terms  
40 of understanding what gear to use and how to catch  
41 the fish.

42 Q And how long do you intend to pursue this before  
43 you make some policy changes to reflect the  
44 result?

45 MS. FARLINGER: That's part of what the end of the  
46 program, the end of the PICFI program, it's one of  
47 the decisions we'll have to provide advice for in

1 terms of moving forward, post-PICFI.

2 Q So this is advice for the 2012 season?

3 MS. FARLINGER: Yes.

4 Q That's coming right up.

5 MS. FARLINGER: It is. Yes.

6 Q And who in your Department is looking at this?

7 MS. FARLINGER: Well, the Integrated Fishery Management  
8 Plan is approved by the Minister. All the fishery  
9 managers and the stock assessment -- Science stock  
10 assessment folks are doing the background on it.  
11 And ultimately as we move into fishery planning  
12 for the year, it's customary for us to take items  
13 that require ministerial decision and forward  
14 briefing material and advice for those, and this  
15 will be done as part of that.

16 Q That process, the Integrated Management Plan  
17 process is beginning when for 2012? When does  
18 that start?

19 MS. FARLINGER: Well, there are some fisheries still  
20 going on, of course, but the post-season reviews  
21 will start shortly with all -- with First Nations  
22 and with recreational and commercial stakeholders,  
23 and the environmental groups that are part of the  
24 Integrated Harvest Planning Committee. And we  
25 move into, from the late fall into January,  
26 February, March, the planning for the fishery for  
27 the next year.

28 Q So you're going to need to provide advice within  
29 the next six months on this issue?

30 MS. FARLINGER: Yes.

31 Q And what will that advice be?

32 MS. FARLINGER: We haven't developed the advice, so I  
33 don't know what it will be at this time.

34 Q When will you be in a position to know what you're  
35 advice will be for this imminent...

36 MS. FARLINGER: Well, as you say, sometime in the next  
37 six months.

38 Q Mr. Bevan, do you have any observations to make  
39 about moving fisheries upstream and the economic  
40 viability of that?

41 MR. BEVAN: Clearly, there's -- where we have mixed  
42 stock fisheries and we have co-migrating weak  
43 stocks, we've had to restrict harvesting. That  
44 means that there's been a reduction of economic  
45 opportunities for a number of resource users.  
46 When we were looking at this whole question, the  
47 issue is, moving fishing upstream gets to a large



1 extent or can to a large extent deal with the  
2 issue of the mixed stock fishery problem.

3 So you have more separation of the stocks,  
4 but it's up to the region to really then determine  
5 whether or not can the fish be harvested in those  
6 circumstances, and if they can be harvested, what  
7 are their economic returns on that harvest. And  
8 that I would have to leave to the region. Because  
9 from a conceptual point of view it's -- going to  
10 the terminal fishery makes sense from a  
11 conservation point of view, but it may not make  
12 any sense unless it's practical to prosecute the  
13 fishery. So that's up to trying it out and seeing  
14 what comes of it.

15 And some of it, you know, a great deal of  
16 analysis may not be required. If you can't catch  
17 the fish, that it's clearly not going to require a  
18 lot of analysis to determine if the fish are  
19 uncatchable. And on the other hand if the fish  
20 are in such shape that there's no market for them  
21 and no opportunity to use them, that is another  
22 issue. So I think you have to try it out and see  
23 what the results are and that's what the region  
24 has been doing. So I only make that observation  
25 to corroborate what Sue Farlinger said.

26 Q Are you aware of any further economic analysis  
27 being done on this issue beyond what we've  
28 learned, which is a couple of test fisheries?

29 MR. BEVAN: There's no economic analysis being done on  
30 it in terms of the headquarters, et cetera,  
31 because we need to have practical experience on  
32 this issue. We can't do a theoretical economic  
33 analysis. We need to know if the fish can be  
34 caught, and if so what shape it's in and what the  
35 value is.

36 Q One of the implications of moving the fishery  
37 further upriver, are issues of Aboriginal versus  
38 general fishing opportunities. Did the Department  
39 put its mind to that issue, and does it have a  
40 position on that?

41 MR. BEVAN: I think that's reflected on the whole  
42 design of PICFI, where we were moving the fishing  
43 upstream by retiring allocation or licences, and  
44 then moving the allocations associated with them  
45 into the upstream. And if it works, fine; if not,  
46 as was noted sometimes the allocations go the  
47 other way if they can't be adequately used in the

1 upstream fisheries.

2 So the policy has been not to compensate, and  
3 that goes back a long way, that whole policy on  
4 both coasts. When there's a court decision and a  
5 requirement of reallocation there has been public  
6 monies used to make those adjustments in the  
7 allocations in a way that doesn't put the burden  
8 on a small subset of Canadians, specifically  
9 commercial licence holders.

10 We did that a long time ago in moving towards  
11 the FSC fisheries, as a result of the *Sparrow*  
12 decision, and many people have perhaps not  
13 recalled the fact that there was money spent to  
14 make those changes. And we've done that again  
15 through PICFI.

16 Q Have you determined nationally whether non-  
17 Aboriginal fishers will have an opportunity to  
18 fish commercially in-river?

19 MR. BEVAN: I think that when the program was designed,  
20 the intention was to allow people who may wish to  
21 move into the river to switch gear and do so. But  
22 nobody's interested in doing that at this point.  
23 But there was no contemplation of saying that you  
24 must fish in the estuary below Mission, and you  
25 can't go anywhere else. There was the  
26 contemplation that if there's an opportunity to  
27 integrate these commercial activities, then it  
28 should work both ways. It's just that the level  
29 of interest has not been there. And I don't think  
30 -- I'd have to turn to Sue to find out if there's  
31 been any desire to have a dialogue on that, to  
32 make it practical. But to my recollection, in the  
33 information that came forward at the national  
34 level, there was no real uptake on that  
35 opportunity.

36 MS. FARLINGER: I think, first of all, one of the  
37 objectives of PICFI was to increase Aboriginal  
38 participation in the commercial fishery, and to do  
39 that by the retirement, the willing retirement of  
40 licences. So this was not forced, it was a  
41 willing retirement. At the same time there was an  
42 opportunity for anyone who participated in the  
43 marine fishery to try demonstration fisheries,  
44 which were fundamentally share-based fisheries.  
45 And we have had uptake on both sides. And but  
46 there has been, as David said, no explicit  
47 provision or request to provide access to non-

1           Aboriginal fishers up the river.  
2       Q     We've heard a lot today and throughout these  
3           hearings about the budgetary constraints in DFO,  
4           and the program that we're discussing now has cost  
5           and is costing millions of dollars, as I  
6           understand it, to support commercial fisheries in-  
7           river, perhaps for economic, perhaps for  
8           conservation reasons. Is there a more effective  
9           use of funds for these conservation-related  
10          efforts, should this money be put into habitat  
11          monitoring or marine research, or implementing the  
12          Wild Salmon Policy, or some of the other things  
13          that we've talked about?  
14       MS. DANSEREAU: I think the evaluation that we're  
15          currently doing of PICFI will tell us exactly  
16          that, and tell us whether or not there are some  
17          parts of PICFI that are working better than  
18          others. And based on that, we will make a  
19          determination as to whether or not we seek more  
20          funds to do -- continue the same amount of work,  
21          or to do other things.  
22       Q     There's been discussion about a share-based  
23          fishery. Ms. Dansereau, is it DFO's intention to  
24          move towards a share-based model for the Pacific  
25          salmon fishery?  
26       MS. DANSEREAU: It's certainly our -- we certainly have  
27          an interest to move to share-base where it works  
28          for both the fish and the people who fish. So we  
29          are taking steps, and Sue can speak in much  
30          greater detail on this, we certainly have an  
31          interest in looking at this for the -- in those  
32          situations where it is feasible.  
33       Q     Ms. Dansereau, do you wish to add to that --  
34          sorry, Ms. Farlinger?  
35       MS. FARLINGER: That's okay, I was just contemplating  
36          the implications of that.  
37                There certainly are conservation advantages  
38          to the share-base fishery. One of the challenges  
39          in the commercial salmon fishery is it has been in  
40          many instances a mixed-stock fishery, as Mr. Bevan  
41          said. And you're very familiar with, I think, the  
42          implications of a weak stock management approach  
43          to mixed-stock fishery, which is it limits access  
44          to some more abundant stocks in order to protect  
45          some of the stocks of concern, or weaker stocks.  
46          And for that reason, the fishery has been for 15  
47          or 20 years moving closer into the river.

1           One of the advantages of a share-base fishery  
2           is then that those people who are -- because of  
3           gear, because of location, because of their own  
4           personal interest, are -- have less access to the  
5           stocks, can then move their share around in the  
6           fishery.

7           Another benefit that we have learned from the  
8           demonstration fisheries is those who are able to  
9           operate on a share basis were able to get a much  
10          higher price for their product per fish, take less  
11          volume and make the same amount of money.

12          Now, there are advantages and disadvantages,  
13          and there are certain parts of the fishery that  
14          may be more amenable to share-base than others,  
15          and that's part of the analysis and work we're  
16          doing at the moment. But the ability to move  
17          shares around from a conservation perspective is  
18          very attractive simply because of the problems  
19          that we have in a mixed stock fishery.

20          So it's not a panacea, it's not the answer to  
21          everything, but there are a number of both  
22          conservation and economic benefits to individuals  
23          who fish around the fishery. That doesn't mean  
24          it's perfect.

25          Q     As I hear your answers, I hear strong support for  
26          the benefits of this different fishing regime.  
27          That being the case, why have you left it to a  
28          voluntary participation, as opposed to changing  
29          the way fishing is regulated in the Pacific Region  
30          for salmon.

31          MS. FARLINGER: Well, one of the reasons is the same,  
32          as I mentioned, around the in-river fisheries.  
33          It's a feasibility issue: Can it be accomplished,  
34          can fishermen actually derive greater benefits,  
35          can the Department and the public get greater  
36          conservation benefits, and those are certainly the  
37          kind of questions that need to be asked, and is it  
38          practical?

39          We have been doing a fair bit of work both  
40          internally and with the fishing community on what  
41          is the currency. The current allocation framework  
42          in the salmon fishery is based on a sockeye  
43          equivalent type currency, and so there are a  
44          number of questions about is there an appropriate  
45          currency? Well, the people who have been trying  
46          these things out have been able to find the  
47          currency. So those are the kinds of things we

1 needed to test prior to providing, once again, the  
2 advice to the Minister about the longer-term  
3 direction in the fishery.

4 Q I hear you again giving the questions that need to  
5 be answered about these new regimes that look  
6 attractive. How is DFO going about evaluating the  
7 voluntary share-based fisheries you've got going  
8 now and other information to answer those  
9 questions?

10 MS. FARLINGER: We ask for information back from the  
11 participants in terms of, well, for the  
12 participants it's mostly is this practical, can it  
13 be prosecuted, how is your -- how is it affecting  
14 your market, how is it affecting your price? We  
15 consult with processors, who, for example, will  
16 tell us, and this certainly has been an outcome  
17 and advice we have received from processors, it's  
18 far more straightforward for us to be able to  
19 manage the product, not having it all dumped on  
20 the dock the same day, for example. We can stage  
21 it in over a certain number of days, therefore  
22 getting a higher value product, therefore  
23 returning a higher value to the fisherman.

24 We have been able to pilot some pink salmon  
25 fisheries, seine fisheries, that we could not have  
26 prosecuted in the past because of concern about  
27 having the whole fleet out at a time when there  
28 were coho, Thompson coho in the stocks. So we're  
29 gathering information on what fisheries we have  
30 been able to carry on and whether they're more  
31 selective and, in fact, whether it has been of  
32 benefit for the fishermen.

33 Now, not all fishermen have chosen to  
34 participate in this, and part, of course, of  
35 moving forward and providing advice to the  
36 Minister is getting the views of the fishermen in  
37 terms of whether they would be -- find it more  
38 useful to do this.

39 Q In those answers, Ms. Farlinger, which it sounds  
40 similar to the answers on the in-river fishery,  
41 you talk about some of the perceived advantages,  
42 some of the questions that need to be answered.  
43 My questions to you is, and it's the same as my  
44 question on the previous area, can you tell us  
45 with what rigour DFO is trying to get the answers  
46 to these socioeconomic conservation and  
47 conservation questions. And I hear the questions,

1 and I hear the issues, and I used the word "ad  
2 hoc" which you responded back in the other area,  
3 and I'm wondering whether or not it's the same  
4 sort of situation here. There's not a rigorous  
5 careful study that can be evaluated so that  
6 decision-making can be done on it.

7 MS. FARLINGER: Well, to be fair, I think that when the  
8 time does come to provide the advice, that is,  
9 when the analysis directed at the kind of  
10 questions that I've outlined is actually done, and  
11 sometimes that takes the form of surveying  
12 fishermen, sometimes it takes the form of  
13 reporting on consultations, and sometimes it takes  
14 the form of analyzing data that's been gathered,  
15 for example, around the profitability, or  
16 providing an analysis of whether the conservation  
17 benefits have been effective or not.

18 Q But has DFO done any of that, that's my question.

19 MS. FARLINGER: I think your -- if you ask us, did we  
20 start this program with a rigorous evaluation  
21 framework? No. We started this program with a  
22 set of questions that we said we would analyze in  
23 providing advice to make decisions about moving  
24 forward. And that set of questions I think I've  
25 generally covered, and those, and analysis to  
26 support those will be part of the advice that goes  
27 up for decision.

28 Q Mr. Bevan?

29 MR. BEVAN: I just would add one thing. There was  
30 already a socioeconomic cost as a result of the  
31 mixed-stock fisheries, and that is foregone  
32 opportunities. These are attempts to provide  
33 stakeholders with an opportunity to come forward  
34 with proposals to avoid those foregone  
35 opportunities by going to shares, by going to  
36 different approach to the fishery. They then  
37 prosecute the fishery and then we'll be able to  
38 evaluate the outcome of it.

39 But it's not like we're saying it's either  
40 this or that, it's this kind of fishery or that  
41 kind of fishery. What it is, is it's a restricted  
42 mixed-stock fishery and very little opportunity,  
43 because you can't go and have a high harvest rate  
44 on the combined stocks, or it's an opportunity to  
45 have those fisheries elsewhere, based on a  
46 different model. So that's the context. It's not  
47 like we're saying it's status quo, or it's a

1 difference. Because the status quo in the current  
2 context is not there. We aren't doing what we did  
3 in the past. We are not having high harvest rates  
4 on co-migrating mixed stocks where you have strong  
5 and weak. We don't do that. And if you want to  
6 have an opportunity to get at the strong, you have  
7 to come forward with a proposal under these pilot  
8 projects and under the share arrangements to try  
9 and find an alternative approach.

10 So that's what we're going to have to  
11 evaluate, whether or not the forgone is being  
12 offset by these changed approaches.

13 Q Thank you for that, Mr. Bevan. But would you  
14 agree with me that regardless of what is being  
15 balanced, and I've decided the scales here in  
16 doing a socioeconomic analysis, the analysis has  
17 to be done. It's not enough to simply say this is  
18 bad and this is good, therefore we'll do that. I  
19 mean, don't you have -- and my question is what's  
20 DFO doing to get to the bottom of the real issues.  
21 Are they -- have they engaged in, you know, a  
22 socio-economic analysis on this issue, and share-  
23 based fishery which will allow for appropriate  
24 decision-making?

25 MR. BEVAN: Well, I think right now we're into a very  
26 small or no fishery. That doesn't take a lot of  
27 in-depth analysis. If you don't have an  
28 opportunity to fish because of conservation  
29 concerns, and we balance that off against if  
30 you've got a different approach, you have a  
31 fishery, then you can take a look at the outcome  
32 of that fishery and how it worked.

33 I take your point that we do need to do the  
34 in-depth analysis at some point on the decision,  
35 but it's fairly stark. It's not a complex issue  
36 if you don't have a fishery versus you do have a  
37 fishery. There's clearly a difference between  
38 those two realities.

39 Q Yes, Ms. Dansereau.

40 MS. DANSEREAU: If I may, these are pilots that we are  
41 testing here. We don't in this Department move  
42 quickly when we are changing the regime by which  
43 fishermen or fishing people function. We don't  
44 simply announce a change without having done a  
45 significant amount of work with them and make sure  
46 that we have a significant number of them in  
47 agreement with the approach. And so using the

1 pilot and the testing approach is a way of opening  
2 the door to see if there will be some benefit, and  
3 if those work then that gets put into a basket for  
4 us to analyze.

5 But we do do share-based fisheries, as we  
6 said earlier. The groundfish fishery, halibut,  
7 that is share-based and it is successful. We have  
8 other very economically viable, very successful  
9 fisheries across the country that are share-based.  
10 And so we know that under the right circumstances,  
11 and we have to be careful what those circumstances  
12 are, it can be extremely economical. And as David  
13 says, sometimes it will come down to you can  
14 either fish or not fish, take your pick. So but  
15 we would have to work with the industry, and  
16 sometimes we have to give that the right amount of  
17 time to make sure that they are willing and able  
18 to participate in something like this.

19 And that, for me, as the person who would  
20 providing the final advice to the Minister, would  
21 be what I would look at. I would look at the  
22 results of the pilots. I would look at the advice  
23 coming from the region, first of all on the  
24 conservation impacts. Are we continuing to ensure  
25 that we're protecting the stocks that need to be  
26 protected? Secondly, is the fishing community  
27 able to participate in this the way that we want  
28 it to? What is the repercussion of us going in  
29 that direction? And with all of that together, I  
30 would provide advice to the Minister to consider  
31 changing the management approach, and these things  
32 take time.

33 Q They take time and I suggest that they also take a  
34 certain discipline of analysis and what I hear  
35 that I haven't heard that the sort of analysis,  
36 which it seems to me would be required to make  
37 appropriate decisions is being done. You put out  
38 the pros and cons and you say it's happening  
39 elsewhere, but has the application of this  
40 principle on this fishery been analyzed so that  
41 when you give advice to the minister it is, "Here  
42 are the benefits. Here are the costs. Here" --

43 MS. DANSEREAU: Yes. Yes, we would do that.

44 Q You will -- sorry, you will do that?

45 MS. DANSEREAU: That is how we provide advice.

46 Q But I understood --

47 MS. DANSEREAU: And that --



1 Q But I haven't heard that there's been a  
2 socioeconomic analysis done on this.

3 MS. DANSEREAU: Because we're still in the pilot stage.  
4 So we haven't completely turned over the fishery  
5 to a different approach at this time, but it is  
6 under consideration.

7 Q But isn't the turning over based on a decision  
8 which is based on the advice you give which  
9 follows from having analyzed the test?

10 MS. DANSEREAU: And that's why we have the pilots.

11 Q And do you have in place a method, a methodology,  
12 a timeframe, to do the analysis to give that  
13 advice?

14 MS. DANSEREAU: It will be -- in some cases it will be,  
15 as David said, sometimes it's as simple as saying,  
16 "If we use this approach we were able to prosecute  
17 a fishery this year, and if we didn't use this  
18 approach we were not able to." Sometimes it's a  
19 simple as that, and other times it will be --  
20 there will be more information that's required, so  
21 we would determine that on a case by case basis.  
22 But there is analyses.

23 MR. BEVAN: But the pilot phase is the gathering of  
24 information phase. You can't do an analysis  
25 unless you know that one type of approach can  
26 actually be an alternative and a difference. So  
27 in doing the pilots, that's the portion where you  
28 try out these concepts, you see if they're  
29 pragmatic, and then you start to gather enough  
30 information so you can do an analysis. But  
31 without the information there is no analysis, and  
32 without the information it's also difficult to,  
33 "Can we do a comparison? Can we do the analysis?  
34 What's the design? What are the criteria," et  
35 cetera. We need to see if this stuff, these  
36 ideas, can be, in the salmon context, put into  
37 place at all. And if they can be, okay, what are  
38 the -- then we can do the economic analysis at  
39 that point, when we've actually seen a few years  
40 of -- and with salmon it does take a few years,  
41 because what worked in 2010 may not work in 2011,  
42 because you're dealing with different abundances  
43 and you're dealing with huge variations in  
44 circumstances, so we need to gather information  
45 for a period of time before we can actually design  
46 a conclusive analytical design. But again, it can  
47 be very stark if the choice is go/no go, and it

1 doesn't take the degree of analysis to determine  
2 whether or not you should go versus not go.

3 MS. FARLINGER: I think there has been some analysis  
4 and some of it will certainly be brought to bear,  
5 but there will be more. I'd point to a couple of  
6 things. We analyze, over time, with an  
7 independent panel, the value of licences, and that  
8 value of licences reflects the earnings in the  
9 fishery. And so that's one independent study of  
10 value in the fishery that we would use. There are  
11 many ways that we do this.

12 In the Skeena River, following the report of  
13 the independent science panel on the Skeena, which  
14 looked at exactly these kinds of issues, mixed  
15 stock fisheries and the kinds of changes that will  
16 be required to implement the Wild Salmon Policy,  
17 we followed up with an economic study that was --  
18 did take a look at the regular commercial fishery  
19 in the mouth of the Skeena River.

20 So those are just a couple of examples that I  
21 point out that there is economic information  
22 available. And when we come close to the analysis  
23 in providing the advice, we would be bringing that  
24 as well as any additional analyses that we needed  
25 to do.

26 Q Ms. Farlinger, do you have a timetable for  
27 completing the analysis and giving the advice?

28 MS. FARLINGER: I do have a timetable for having to  
29 provide advice up through our system and to the  
30 minister for the 2012 season. That is not  
31 necessarily the same timeline as an evaluation of  
32 a share-based fishery on salmon.

33 Q Will you be giving the minister advice this year  
34 for the 2012 season on a share-based fishery?

35 MS. FARLINGER: That has yet to be decided.

36 Q DFO's management of finfish aquaculture has been  
37 -- and its implications for the Fraser River  
38 sockeye is one of the issues before the  
39 Commissioner. Government responsibility for  
40 aquaculture regulation and oversight was  
41 transferred from the Province to DFO. Andrew  
42 Thomson, who was the director of aquaculture  
43 management, director at DFO here in the Pacific,  
44 testified that you, Ms. Dansereau, made the  
45 decision to grandfather and rollover existing  
46 aquaculture licences in December 2010; is that  
47 correct?

1 MS. DANSEREAU: I'm sorry, that's very specific. I  
2 remember the decision process that we went  
3 through. I'm just trying to remember if we had to  
4 go to the minister for the final decision, and I  
5 can't remember that. But I would have been part  
6 of the decision process around that.

7 Q And the decision -- okay, so you were involved in  
8 the decision --

9 MS. DANSEREAU: Yes.

10 Q -- to simply --

11 MS. DANSEREAU: Yes.

12 Q -- to grandfather the existing provincial  
13 licences?

14 MS. DANSEREAU: Yes.

15 Q And this, I take it, was with -- the minister may  
16 well have been involved in that, and it was based,  
17 I take it on briefing materials you received from  
18 the Pacific region?

19 MS. DANSEREAU: Yes. I don't know if it's briefing  
20 material, but definitely briefings.

21 Q Briefings, yes. Dr. Ian Fleming testified that a  
22 large number of wild sockeye salmon population  
23 share a confined migratory path in which they must  
24 pass through a constricted area on the east coast  
25 of Vancouver Island. He testified that this seems  
26 to be - and this is a quote:

27  
28 ...seems to be an important area that would  
29 require protection if there is --

30  
31 were risks of disease. Did the decision to  
32 grandfather existing aquaculture licences include  
33 any consideration of the unique geography of the  
34 Fraser sockeye migration route?

35 MS. DANSEREAU: Yes. And the Department was not  
36 ignorant - and I use that in the formal definition  
37 of the term -- of the word - of the relationship  
38 between finfish aquaculture and wild salmon, even  
39 prior to us taking over jurisdiction. So we were  
40 very involved in understanding the dynamics and  
41 the -- in all of the various geographic systems.

42 Q Was there thought given as to whether these  
43 constricted areas on the east coast of Vancouver  
44 Island ought to receive special protection?

45 MS. DANSEREAU: Well, as I said, we've been working on  
46 -- the Department had been working on these files  
47 for a long time, and had the Department been of

1 the opinion that the location of the sites posed  
2 some threat to the wild salmon, we would have done  
3 something even before it was within our  
4 jurisdiction. We would have worked with the  
5 Province and we would have imposed certain  
6 restrictions. So there was no need, at that  
7 point, to do a new analysis, because we had  
8 already been involved in the process.

9 Q Dr. Dill testified, here, that in relation to  
10 possible cumulative impacts of fish farm wastes,  
11 I'm quoting:

12  
13 ...although the impacts of any one farm are  
14 local, in the Discovery Island areas there  
15 are a large number of farms that the fish  
16 have to pass sequentially during their  
17 migration, and there simply have not been any  
18 studies on what the consequences of that  
19 might be.

20  
21 Now, in grandfathering these licences, and in your  
22 previous involvement with them, as you mentioned,  
23 did you or the minister consider the cumulative  
24 risk that may arise from multiple farms in a  
25 congested area?

26 MS. DANSEREAU: We had been, as you know, the science  
27 around the relationship between wild salmon and  
28 farmed salmon is very much under dispute. There  
29 are differing opinions in the scientific community  
30 of those impacts. And our science has always been  
31 -- the advice that we have always received from  
32 our scientists has always been that there is no  
33 threat at this point, or there's no threat that we  
34 are completely aware of - and I'll let Laura speak  
35 to that in more detail - that it's certainly not  
36 of sufficient threat to cause us to intervene. We  
37 are all very taken with this question. We are all  
38 interested in this question. And science is very  
39 active in trying to make sure that we are  
40 minimizing the risk.

41 Q Dr. Richards, you were invited.

42 DR. RICHARDS: Well, I think we do have a fairly active  
43 research program in this area and the -- we have a  
44 fairly structured process to work with our  
45 managers to identify the priority questions to be  
46 looked at that would then help direct the science.  
47 One of the questions and one of areas of research

1 that we have been looking at is, in general, the  
2 circulation through some of these areas, and we  
3 have developed, because of the importance of those  
4 questions, we have developed some capacity to do  
5 some modelling that we could then to -- be able to  
6 look at some of these -- that would be -- could be  
7 useful as a tool to help address, you know, some  
8 of these questions.

9 Q Did you look specifically at cumulative impacts of  
10 the number of farms?

11 DR. RICHARDS: I'm not aware of the work that we have  
12 done, at this point, on cumulative impacts, per  
13 se. It's been more directed at, you know, more  
14 specific questions. But we do have some tools  
15 that I think we would be able to use to start to  
16 look at some of those questions.

17 MS. FARLINGER: Since about 2003, we took what was a  
18 list of criteria for screening new sites for  
19 finfish aquaculture and developed it into - with  
20 the help of Laura's folks and the circulation  
21 modelling and other things - a far more structured  
22 system for analysing sites for the location of  
23 fish farms, and it involves sort of a high-level  
24 screening, which says, you know, you need to be a  
25 kilometre away from the mouth of a salmon stream,  
26 and you need not to be over valued ecosystem  
27 components like eel grass or rockfish areas or  
28 route -- specific areas that are used by salmon  
29 and other fish. And so there's a rough screen.

30 And then there is a very detailed screen that  
31 takes a look at the circulation in the area and  
32 the deposit of organic material and the level of  
33 production. And we also have a set of best  
34 practices given to us by Environment Canada that  
35 are required by the -- that the operator commence  
36 to doing these things. And all of those things  
37 we've been doing since early 2003. All of these  
38 were brought over into the new aquaculture licence  
39 under the aquaculture regulation, specifically to  
40 make them conditions of licence, including the  
41 fish health plan.

42 Prior to that, DFO advised on the fish health  
43 plan. We provided scientific advice to support  
44 the fish health plan. Prior to that, we  
45 encouraged the Province to manage aquaculture on a  
46 bay or ecosystem kind of basis. We supported the  
47 activities, for example, between marine harvest

1 and the ENGO that works up in the Broughton  
2 Archipelago to take a look at fallowing and area-  
3 type effects. And part of the planning of our  
4 implementation of the new aquaculture regulatory  
5 system is, in fact, to work towards an area-based  
6 plan.

7 So those kinds of cumulative effects are very  
8 much in our sights in terms of looking at how  
9 aquaculture is managed and regulated. And it can  
10 range from disease practices of -- disease  
11 avoidance practices and fish health practices on  
12 farms to make sure they're coordinated right  
13 through to the cumulative impact of deposition.

14 And as Laura said, we've developed the  
15 capacity and brought people into the Department  
16 who have the capacity to look at that circulation  
17 and, in this case, deposition, so that the idea of  
18 an area-based management of aquaculture is  
19 definitely what we're shooting for in the new  
20 regulatory regime.

21 Q Thank you. So this new regulatory regime will  
22 apply to applications for new licences?

23 MS. FARLINGER: Yes.

24 Q What about existing licences? Is DFO reviewing  
25 those?

26 MS. FARLINGER: In terms of site applications, they  
27 would apply to new licences. In terms of the  
28 existing farms, the management of those farms on  
29 an area basis would apply to all of the operations  
30 in an area.

31 Q But you're not applying the new standards to a  
32 review of current licences?

33 MS. FARLINGER: The idea of managing farms on an area,  
34 let's call it Broughton Archipelago basis, is that  
35 the farms work together in all their practices and  
36 we work together to make sure we understand the  
37 cumulative effect and ensure that their management  
38 practices are done in a way that works in an  
39 ecosystem basis; that is, one is not acting  
40 independently of another. So yes, the existing  
41 farms would be subject to moving towards this bay-  
42 based kind of management. But as for site  
43 selection, no, that would only apply to new sites.

44 Q Yes. So looking at current licences more  
45 generally and not with respect to the particular  
46 question, the question I asked previously, but  
47 generally, is DFO looking, now, having

1           grandfathered all these licences, is it looking at  
2           them, now, and evaluating them anew, or is this  
3           just letting them run their course?

4       MS. FARLINGER: All the monitoring provisions of the  
5           licence which have to do with waste management,  
6           which have to do with fish health plans, apply to  
7           all of the licences existing and, if any, new. So  
8           for example, a significant amount of the human  
9           resources that went into the aquaculture plan are  
10          to provide - and you may have heard about this  
11          from Andy Thomson - for monitoring teams that go  
12          about -- go around and monitor the waste  
13          management from each farm, so they dive down and  
14          assess. There's a structured evaluation  
15          framework, thank heavens for that, and also a  
16          structured program for looking at the fish health  
17          provisions, and that each farm is being monitored  
18          with respect to how they're meeting the fish  
19          health provisions.

20                 So just comparatively, before DFO had very  
21          little control over those fish health provisions.  
22          We certainly advised on them, but we were not the  
23          regulators. Now, we require those fish health  
24          provisions to be met as a condition of the  
25          licence, and we can enforce those provisions.

26       Q       What I hear you describing is what I would expect  
27           a regulator, responsible regulator, to do with  
28           respect to anything that it regulates, which is  
29           monitor how people, whether or not the entities  
30           they're regulating are doing what they're supposed  
31           to be doing.

32                 My question was a little different. You've  
33          inherited these licences from the Province. You  
34          knew something about the farms but not,  
35          presumably, about the regulatory scheme and the  
36          standards they're supposed to meet. Is DFO  
37          looking anew at these licences to see whether or  
38          not they should be maintained, they should be  
39          renewed, you know, are you looking at it with  
40          fresh eyes now that you have this new  
41          responsibility?

42       MS. FARLINGER: I'm trying my best to answer. I think  
43           that all the monitoring provisions for -- apply to  
44           those old farms and to the new farms and, in fact,  
45           where we're considering any movement for any of  
46           the existing farms, it is where they can  
47           demonstrate they can reduce their environmental

1 footprint. So are we going back and saying, "Can  
2 you operate?" We're only saying that in the  
3 context of, "Do you meet these conditions of  
4 licence," and all the regulatory things that are  
5 said. "Are you doing waste management in this  
6 way? Are you doing fish health in this way?"

7 So on one side, we are not going back and  
8 reviewing each farm as if it were a new site, if  
9 that's the question you're asking.

10 Q Sort of. I realize your ability to effect an  
11 existing licence is going to be constrained. But  
12 these licences are all for a finite period and  
13 there are going to be applications, presumably,  
14 for renewal, and it seemed to be it was possible  
15 that DFO might be looking at these licences to --  
16 in anticipation of renewals. No?

17 MS. FARLINGER: The licences that were issued in  
18 December of 2010 were issued for a certain amount  
19 of time - I can't remember exactly what it was, at  
20 this moment - but we would be looking at renewing  
21 those licences, but ensuring that they were  
22 operating within the regulatory framework, not the  
23 question of whether they would be operating,  
24 unless they were out of compliance with the  
25 regulatory framework.

26 MS. DANSEREAU: If I may, just to make sure we're clear  
27 on the notion of grandfathering, grandfathering  
28 didn't mean that the world prior to the change for  
29 the fish farms will carry on the same way it was  
30 prior to the change. It simply meant that they  
31 were allowed to continue operating, but now  
32 they're going to be operating under the new  
33 regime, and as Sue says, if, through time, we find  
34 that they are not meeting the obligations under  
35 the new requirements, then whatever actions that  
36 are specified in the regulations we can take we  
37 will take.

38 Q Our perspective here is the Fraser River sockeye,  
39 and my initial questions related to the particular  
40 phenomenon of the Fraser River sockeye migratory  
41 route and a concentration of farms in one area.  
42 And in the draft aquaculture application form,  
43 which is an exhibit, there's no mention of sockeye  
44 migration route as being an issue that is  
45 something on which someone has to respond. If  
46 this is a matter of importance, why is it not  
47 something that farm -- applications for farms



1 addresses?

2 That was a very badly structured question.

3 MS. FARLINGER: Well, I'll do my best.

4 Q Thank you.

5 MS. FARLINGER: There is, as I mentioned earlier, a  
6 very rough screening set of criteria that are  
7 based on the pre-2003 set of agreed siting  
8 criteria, and they do -- they're specifically  
9 about physical sites and they do talk about  
10 avoiding valued ecosystem components, including  
11 salmon streams, the mouths of salmon streams. So  
12 it certainly is considered.

13 Based on the science we have now, and I can  
14 ask Laura to confirm this, the management of any  
15 impacts that may occur is basically focused on how  
16 the fish health plan and the waste monitoring for  
17 the farm is managed. So I'm just -- I'm going to  
18 leave it there and see if Laura can pick it up.  
19 No?

20 MS. DANSEREAU: If I may, there are two parts to this  
21 and I don't know if I'm -- I was just trying to  
22 get a precise answer, but the application for the  
23 site is different from the regulation and all the  
24 requirements under the regulation. So the  
25 application for the site that we have in here is a  
26 very minor document compared to everything that a  
27 site operator was going to have to implement, as  
28 Sue described, all the information, the  
29 monitoring, and all of that, and that's in the  
30 regulation.

31 Q No, and I understand that. But the context in  
32 which I was looking at this was essentially the  
33 siting issue, which is an application for a  
34 licence issue, I think. Mr. Bevan?

35 MR. BEVAN: Yeah, I think there is a distinction there.  
36 The Province retains the leasing requirements, so  
37 they have some role in the issue of allowing sites  
38 in the first place. Then there's the process that  
39 we go through in terms of evaluation of the  
40 impacts, et cetera, before determining whether  
41 that site should be used.

42 I think, though, it's important to understand  
43 that the whole design of the regulatory regime  
44 that we put in place is based not just on a suite  
45 of measures that each licence holder, in terms of  
46 the aquaculture industry, each farm site would  
47 have to respond to, it also looks at looking at

1 the entire area and setting up a management plan  
2 for all of the aquaculture activities within that  
3 area. And based on those, the sites that are in  
4 that area, the criteria that would apply to them  
5 would be defined. So there's going to be  
6 conditions of licences set that are not cookie-  
7 cutter. They will be reflective of the overall  
8 plan that must apply in the geographical area or  
9 the ecosystem that is being used by all of the  
10 farms in that location. So that may be something  
11 that would change if there's more sensitivity in  
12 one location versus another.

13 Q And I take it from that that the number or the  
14 concentration of farms would be looked at in that  
15 context?

16 MR. BEVAN: The concentration of farms or what they're  
17 allowed to do in that area based on the  
18 concentration. If there's a concentration of  
19 farms in the area there may be different  
20 requirements relevant to waste management and so  
21 on and so forth. So the density could impact the  
22 kind of licence conditions that would apply in  
23 those locations.

24 Q Requirements to fallow the farms at particular  
25 times?

26 MR. BEVAN: Things like that could be considered.  
27 Certainly it's not something you do just as a,  
28 "We're going to come in and dictate." You're  
29 going to sit down and talk with the people in that  
30 area, just as we do with fisheries. We talk to  
31 the people about the need to deal with the  
32 conditions of the fisheries and how they're going  
33 to be prosecuted, and we do the same thing to  
34 develop an aquaculture plan for that geographical  
35 area.

36 Q Who's going to pay for this?

37 MR. BEVAN: Pay for it? There is an obligation,  
38 obviously, on the part of participants to meet the  
39 requirements. So when we lay down the  
40 requirements in terms of having the plan worked  
41 out with stakeholders and then that sets criteria  
42 that would be reflected in licence conditions,  
43 it's the obligation of the person who has the  
44 permission to conduct that economic activity to  
45 comply with the licence conditions.

46 Q Who's going to pay for the licence evaluation, the  
47 monitoring, the --

1 MR. BEVAN: We've already done that.

2 Q -- various activities that you've mentioned here?  
3 Is that something that you would look at a user  
4 pay system for?

5 MR. BEVAN: We've already had a program in place and it  
6 was funded from national headquarters and put in  
7 place in the region, that includes the monitoring,  
8 the enforcement activities, et cetera. So we  
9 haven't, at this point, contemplated a user fee or  
10 something to offset --

11 Q You are or are not?

12 MR. BEVAN: No, we haven't contemplated having the  
13 industry then pick up the tab for all of the DFO  
14 staff. But we are suggesting - not suggesting, we  
15 are saying - that the conditions that are going to  
16 be laid out in the licences as they are defined as  
17 a result of those plans, that's not -- that's the  
18 responsibility of the industry to meet those  
19 conditions and provide us with the information,  
20 provide us with the data, et cetera, make it  
21 available to DFO staff so we can ensure the public  
22 that we are maintaining a sustainable activity.  
23 That's their role. Our role would be to take that  
24 information and all that data onboard and to  
25 provide the confidence through a transparent  
26 process with publicly provided information to the  
27 Canadian public that we are maintaining  
28 sustainable activity.

29 Q Is there a policy reason why you wouldn't impose  
30 the cost of regulation on the industry that is  
31 profiting from the activity? And the parallel  
32 from earlier today comes to mind, that the  
33 commercial fishers are to pay for the catch  
34 monitoring.

35 MR. BEVAN: They don't pay for fishery officers. They  
36 don't pay for all the science. They don't pay for  
37 all of that activity. So the parallel is actually  
38 exactly the same between the commercial and the --  
39 industry and the aquaculture industry. There's no  
40 difference in approach between those two. And it  
41 wasn't because we were going to be consistent with  
42 the commercial cash. That's a factor, obviously.  
43 We don't want to impose costs on one group  
44 competing in the same markets versus another. But  
45 it takes time to do those designs and we  
46 concentrated on sustainability and on the issue of  
47 being able to demonstrate to the Canadian public

1           that we had it in control. That's where we spent  
2           our energy in getting that up and running on -- in  
3           response to a deadline imposed by the courts.

4       Q     The costs of catch monitoring are to be paid by  
5           the commercial fishers?

6       MR. BEVAN: And the cost of providing us with all the  
7           data on disease, on waste management, on all of  
8           the activities, that all rests with the industry.

9       MR. WALLACE: Thank you. I haven't quite done with  
10          this topic, but I suggest, Mr. Commissioner, this  
11          would be a good time to break.

12       THE COMMISSIONER: Thank you very much.

13       THE REGISTRAR: The hearing is now adjourned until ten  
14          o'clock tomorrow.

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16                   (PROCEEDINGS ADJOURNED TO SEPTEMBER 23, 2011,  
17                   AT 10:00 A.M.)  
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1 I HEREBY CERTIFY the foregoing to be a  
2 true and accurate transcript of the  
3 evidence recorded on a sound recording  
4 apparatus, transcribed to the best of my  
5 skill and ability, and in accordance  
6 with applicable standards.  
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11 Karen Hefferland

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